

COUNCIL MEETING

April 25, 2012

The Council Meeting of the Council of the County of Kaua'i was called to order by the Council Chair at the Council Chambers, Historic County Building, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, April 25, 2012 at 9:55 a.m., and the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Dickie Chang
Honorable KipuKai Kualii
Honorable Nadine K. Nakamura
Honorable Mel Rapozo (present at 9:57 a.m.)
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro, Council Chair

APPROVAL OF AGENDA.

Mr. Bynum moved for approval of the agenda as circulated, seconded by Mr. Chang, and unanimously carried.

MINUTES of the following meetings of the Council:

Special Council Meeting of March 21, 2012

Mr. Bynum moved to approve the minutes as circulated, seconded by Mr. Chang.

Council Chair Furfaro: Mr. Rapozo, just for note I did not know what time you were leaving this morning, but I did know you were traveling, so I already announced that. Please let the record show that Mr. Rapozo is in attendance.

Mr. Rapozo: Mr. Chair, I will be leaving at 11 a.m., but I will be back in the afternoon for the session.

Council Chair Furfaro: Very good, thank you.

The motion to approve the minutes as circulated was then put, and unanimously carried.

Council Chair Furfaro: We have three items on the Consent Calendar. According to our rules, is there anyone that would like to take three minutes to speak on any of these items? Is there anyone in the audience that would like to speak on any items on the agenda? Come right up. Are you going to speak on items on the Consent Calendar? Okay. So when you do, Ken, please read the Consent Calendar item number.

There being no objections, the rules were suspended.

KEN TAYLOR: Good morning, Councilmembers, my name is Ken Taylor. I would like to just speak briefly on item no. 3 on the Consent Calendar C 2012-121. I want to thank the Councilmembers for bringing this forward and hope that you will move forward with passing this resolution. I personally do not have children in school, but I have talked to a lot of people on the island that have

children in school and problems with bullying activities and I think this resolution will go a long ways to starting the process of getting some rules and regulations in place to curtail or be able to curtail some of this problem. I know it is an issue that the whole community needs to deal with, and I think that we will be a better community when we bring this kind of thing forward for discussion throughout the community, throughout the State, and we will be looking forward to seeing the State take the next big step, what I believe would be some rules and regulations where law enforcement and the school districts would have the ability to resolve some of these problems. So thank you, KipuKai and Mel, for bringing this forward and I hope that the rest of you Councilmembers will see fit to pass this resolution. Thank you.

Council Chair Furfaro: Thank you very much. Is there anyone else in the audience that would like to speak on this Consent Calendar and/or any other item at this time posted? If not, I would like to move to receive the Consent Calendar.

There being no objections, the meeting was called back to order, and proceeded as follows:

CONSENT CALENDAR:

C2012-119 Communication (04/13/2012) from the Director of Finance, transmitting for Council consideration, a resolution authorizing the issuance of general obligation refunding bonds to refund all or a portion of the County's outstanding General Obligation Bonds, Series 2005A: Mr. Bynum moved to receive C 2012-119 for the record, seconded by Mr. Kuali'i, and unanimously carried.

C 2012-120 Communication (04/13/2012) from Councilmember Chang, providing written disclosure on the record of a possible conflict of interest relating to an update on the 2012 Kaua'i Marathon due to his position as the owner of Walaau Productions, which tapes and airs footage of the Kaua'i Marathon: Mr. Bynum moved to receive C 2012-120 for the record, seconded by Mr. Kuali'i, and unanimously carried.

C 2012-121 Communication (04/12/2012) from Councilmember Kuali'i, and Councilmember Rapozo, transmitting for Council consideration, a resolution encouraging adoption on anti-bulling policies and regulations in schools: Mr. Bynum moved to receive C 2012-121 for the record, seconded by Mr. Kuali'i, and unanimously carried.

Council Chair Furfaro: For the Order of Business today I would like to make an announcement as they have come to me. In the first item today we will be taking up item C 2012-90, which is on page 1, the Kilauea Gym. That will be followed by the second item by request of C 2012-125 on page 2, the Open Space Commission Report, and followed by item C 2012-131, which is a Legal Document on page 3. So on that note, may I ask the Clerk's Office to read the first item.

COMMUNICATIONS:

C 2012-90 Communication (03/01/2012) from the Council Chair, requesting the presence of the County Engineer and the Chief of Buildings to

provide an update on the repairs and maintenance of the Kilauea Gym as it relates to the leaking roof, floor damage, and corrective action that has been done to address the roof and floor: Mr. Rapozo moved to receive C 2012-90 for the record, seconded by Mr. Kualii.

Council Chair Furfaro: We have a motion to receive and a second. On that note, I am going to suspend the rules and ask Mr. Haigh if he can join us. And I believe Mr. Lenny Rapozo will...thank you, Lenny.

There being no objections, the rules were suspended.

DOUGLAS HAIGH, CHIEF OF THE BUILDING DIVISION, DEPARTMENT OF PUBLIC WORKS: Public Works has asked Lenny Rapozo, Parks & Recreation Director, to attend with us since this asset has been passed on to the Department of Parks & Recreation, and they are the ones primarily responsible and the leaders in moving forward for this building. Now the Building Division certainly still actively supports Parks & Recreation in any way we can, but the primary management responsibility for the facility is with the Department of Parks & Recreation.

Council Chair Furfaro: Doug, I am glad you said that because I want to make sure we understand. There is a Hawaiian value called "kino'ole." Translated it means "without flaw." A canoe maker would not make a canoe to send somebody out in the ocean if it had a flaw because the recipient of that canoe would never return. So I am very pleased to hear that although it is in the Parks Department, you folks are collaborating on the outcome. So we are practicing "kino'ole" here, without flaw. Thank you very much. So are we turning this report over to Mr. Rapozo?

Mr. Haigh: I would just like to say unfortunately we did not turn over the asset without flaw, and I do not think there were any assets we turned over to Parks & Recreation without flaw. Lenny has expressed to me...I will not tell you what he said before the meeting, but it is a challenge for Parks & Recreation, and we are there to support them as much as we can because we know we did not turn things over without flaw, so we are still there strongly behind them, supporting them as necessary.

Council Chair Furfaro: Thank you for recognizing your kuleana. Lenny, you have the floor.

LEONARD A. RAPOZO, Jr., DIRECTOR OF PARKS & RECREATIONS: Thank you, for the record Department of Parks & Recreation's Director Lenny Rapozo. I, too, have a Hawaiian grandmother that we do things "kahiau," without expectation. So with that being said, we understand some of the history behind the Kilauea Gym leaks. The Kilauea Gym continues to leak when there is heavy rain. And by the term heavy rain is the last weather event that we had caused some of the leaks within the gym to appear again. Also there is a lot of moisture that comes in through the windward side or the eastside of the gym in the doors. So those are some of the things that we want or need to address at the facility. I am showing you a picture of the type of damage that is currently there at the doors. These are the eastside door. In personally inspecting the facility, some of this damage does not affect any play of the court. The basketball can continue to play. Although long-term within the courts themselves, there is dire need to address the court in terms of the court is beginning to show uneven play or uneven there. The facility is a well used facility. We know the community uses it a lot for the different functions. Volleyball and basketball is big in the Kilauea Community. So there is a need to

address this problem. There have been discussions as to possible remedies, but really the remedy that we need to really look at is ultimately the roof because this is the area that seems to have constant leak problems when there is heavy rains. We know some of the history, that the Gym was constructed, the roof was redone, and we continue to have leaks. We would like to propose a couple of options. Some immediate options are to address the damage near the doors by having lean-tos put in. If you are familiar with the Kilauea Gym, on the outside it is the door without any type of...this is the door area that we show where we have the damage. It really has nothing but the door. With rain and wind, water gets in through the door and it affects the floor. So one remedy or it is going to be a combination of remedies is to build a lean-to from here and us guys from the plantation we know them as porches where you can walk up the steps. We have some design. We did an in-house design for a lean-to to be put here and on this door here, this is the eastern facing wall of the facility, get that built. Look to change these doors as well. If you are from the inside, you actually can see light coming in from the outside. With that being said, water can get in. So to find a better door that can do a better job of sealing. We looked at possibly...we discussed possibly working with Public Works and their maintenance people, looking at maybe we have to change the seals or whatever, well, we just decided we are going to change this door and we have some designs from the lean-tos to come out this way. Also we need to understand what is happening with the roof. We have gone through a lot of discussions as to what is possibly going on with the roof, but we believe that we need to hire a roof consultant to look at the structure of the roof to kind of figure out once-and-for-all, if we can, really what is going on with the roof. And that is pretty much...and I have requested for moneys to be allocated, about \$120,000.00 and my request has gone through the Finance Department to use some of the funds from the Parks & Recreation Improvement and Maintenance Revolving Fund. That is to do this maintenance work. For now we are calling it an R&M maintenance work, and depending upon what the consultants come up with the roof for corrective measure, it may become a major CIP project. Ultimately we have to do something about the floor. We have spoken to some flooring people and they will not touch the floor until we fix the roof. Smart guys, right? Where there is damage by the door, this does not affect the play area of the court. So some discussion has revolved around removing this section and maybe do some work where it would kind of funnel back towards the door if there is moisture that comes through the door again. Those are some of the discussions, some of the corrective measures that we have been looking at and what we think the direction that we want to go. With that if you have any questions, or Doug, would you like to add anything?

Council Chair Furfaro: Thank you, Lenny. This problem with the doors on the Koolau side, so we all know Koolau references the windward side, has been a problem for a couple years or at least it has been brought to our attention. So if you are successful with tapping the Parks and Recreation Revolving Fund, what kind of timeline do we have here? Because the water through the doors is seeping through the floor and we have got cupping going on where the floor is now becoming convexed and not concaved. The bow is not on the top. The bow is on the bottom. Do you have a timeline?

Mr. Lenny Rapozo: As soon as the Finance Director signs off on our request allowing us to access the money from this particular fund. We finished the design in-house and we have asked, with the help of Public Works, the scope of the work is such that Public Works can help us do the construction and then we can move forward with purchasing the material and scheduling the work, and they can do it for us.

Council Chair Furfaro: My other recommendation after visiting the Gym, which my family has been very active with it a long time, is there any thought about putting a concrete landing closer to the threshold of the door so that the water does not go directly under the...

Mr. Lenny Rapozo: That is some of the discussion we had where we would concrete it and make it flow back towards the door in case there is...so the flow remains near the door and does not get to the wood. As we said earlier, it does not really impact play, that area, so we could do like you had mentioned a landing in that area.

Council Chair Furfaro: On that note, Mr. Chang, you have the floor.

Mr. Chang: Thank you, Chair, and Doug, and Lenny. Are there doors on the western side of this Gym?

Mr. Lenny Rapozo: Yes.

Mr. Chang: So have we experienced any damage on the westside?

Mr. Lenny Rapozo: No.

Council Chair Furfaro: The western side is the entrance.

Mr. Lenny Rapozo: Yes.

Council Chair Furfaro: And there is an eave.

Mr. Lenny Rapozo: There is an eave.

Mr. Chang: Oh, okay.

Council Chair Furfaro: On this, the Koolau side, which we are seeing pictures of, the doors have no eaves. I am sorry, in a plantation you call it "no porch."

Mr. Chang: So we have not experienced any damage coming in from the entrance side.

Mr. Lenny Rapozo: No.

Mr. Chang: Thank you.

Council Chair Furfaro: Mr. Rapozo, then Vice Chair Yukimura.

Mr. Rapozo: Thank you and I am not sure who gets this question, but I would assume that at this point we do not have any warranties, we are pretty much done?

Mr. Haigh: We have material warranty for the roof, but the labor warranty would have expired by this time because the second roof was installed in 2003.

Mr. Rapozo: And how long is that material warranty?

Mr. Haigh: It should be a twenty (20)-year.

Mr. Rapozo: Okay, and it is clear that we still do not have any understanding of the cause, but I thought at one point we hired a consultant to try to finally...

Mr. Haigh: That is correct. In 2000 we hired a consultant to do a report on the leaks and it is from there that we worked with the County Attorney's Office and did an amendment and then moved forward with the solution. During the construction of the second group, the roofing consultant was there the entire time watching the work and play. So we hired them not only to do the report, but also to inspect and approve the new work because we realized the critical nature of that roof and wanted to make sure we gave it the best shot possible to get it done right. So we had a professional roof consultant on the jobsite for that work.

Mr. Rapozo: And apparently that did not work because it is still leaking. I am not trying...I am just being honest here because you are recommending hiring another consultant, but I am not sure...what was that first one. How much did we pay for that that last consultant?

Mr. Haigh: I do not have that information with me.

Mr. Rapozo: And he was not part of the contractor. He was a third-party.

Mr. Haigh: In the third-party independent.

Mr. Rapozo: And he was there and I believe I was even here when we went through this exercise.

Council Chair Furfaro: We were on the Council when they did the fix, but the work for the consultant, we were not...

Mr. Rapozo: Was prior, it was 2005. So I do not know. I guess I am kind of hesitant to go forward with another consultant. But I do not know how else to determine the cause of this leak.

Mr. Haigh: And we do not have the expertise in-house.

Mr. Rapozo: That I know. I do not expect that because I think that first consultant obviously was a professional and so there is something going on in that roof that escapes even the experts. And I would assume those consultants cost a lot of money and I am not sure if...there is no plan to redo the roof again, right? Well, I guess we do not know until we get the consultant.

Mr. Lenny Rapozo: I guess with that part, since, as Doug said, he has punted to Parks.

Mr. Haigh: No, it was a hand-off.

Mr. Lenny Rapozo: Oh, hand-off, okay. However way, we are taking this issue as a Parks thing. We do not know any history other than it still leaks. They have had some consultant work, they reroofed it. Obviously, like you had mentioned, it did not work, it is still leaking. So we as Parks want to take this asset and try to fix it and we want to hire the consultant. It will not be a Public Works project, but Parks will be taking it.

Mr. Rapozo: The roofing?

Mr. Lenny Rapozo: Parks is going to take it from here on out to try and get this fixed. Of course we are going to collaborate with Public Works because they do have some in-house expertise in terms of in managing it, but I think as Parks we want to try and take this on and take care of our own assets.

Mr. Rapozo: Just make sure it is a different consultant.

Mr. Lenny Rapozo: Exactly, yes.

Mr. Rapozo: Because I am not sure and it is probably a substantial amount. There is going to come a point where you are almost better off removing the roof and putting a brand new roof which is going to cost money, but it is frustrating to constantly fund consultants. It baffles me how we cannot find that leak.

Mr. Lenny Rapozo: Sometimes the best consultants is the guys that had put the roof on, and I have had a few talks with the uncles that did it, and with their input as to...they can be working on the project, but as they are working you know how uncles have done it all their life, they are going to say, yeah, they should have done this, they should have done that, and those are some of the informational questions that I want to ask the consultant in terms of trying to figure out what is going on up there.

Mr. Rapozo: Okay, well, good luck, thank you.

Council Chair Furfaro: Vice Chair Yukimura, you have the floor.

Ms. Yukimura: I was hoping to learn from this so that we could make sure it never happens again, but I guess we do not know what the problem is so that in the building of new gyms, we do not know how to prevent this from happening again?

Mr. Lenny Rapozo: At this point, yes, I would have to say.

Ms. Yukimura: Certainly we know how to handle the doors. I mean that is not rocket science, right? I mean what is the solution for the doors?

Mr. Lenny Rapozo: We are replacing the doors.

Ms. Yukimura: Yes, so it is a different kind of door and if it is on the windward side, put some kind of overhang.

Mr. Lenny Rapozo: Yes.

Ms. Yukimura: So do we put that in our specs any time we build another building.

Mr. Lenny Rapozo: I think we need to pay attention more with the elements in which it is being built. Kilauea, traditionally is much more...it is a wet area.

Ms. Yukimura: Right.

Mr. Lenny Rapozo: As opposed to...we have different challenges in Kalāheo where it is wet as well. But we do have moisture in the gym from a different reason. I believe it is the area and how the weather interacts with our asset that we need to look at, pay more attention to that kind of detail, hopefully this thing will not repeat itself.

Ms. Yukimura: That is sort of an architect's job to fit the building to the environment. I am just looking for ways that we can build buildings that really function well for our purposes. Maybe it is not something you can put into the specs. I do not know. So the consultant for the roofing will be paid for by the \$120...will be included in the \$120,000 request.

Mr. Lenny Rapozo: That is our intent, yes.

Ms. Yukimura: It is going to include a roofing consultant and the fixing of the doors?

Mr. Lenny Rapozo: And the purchase of new doors to include the materials that we need to purchase to make the porch on the two doors to help with the protection of the door.

Ms. Yukimura: And the roofing consultant will tell us, hopefully, how to fix the roof or that we have to replace it.

Mr. Lenny Rapozo: That is our intent, correct.

Ms. Yukimura: All right, thank you very much.

Council Chair Furfaro: So gentlemen, I do want to say through my experience with opening a number of resorts that have banquet meeting facilities and so forth, what has been explained to me is where we have the doors—first of all they are facing the windward side, Koolau side—just to get vehicles in and out in the need of a display or so forth, but when you build a building flush with the door, this is more along the line of a building that is in an area where there is snow because they do not like to put eaves with the weight of the snow being outside the door. So I think we have a double whammy here with having those exhibit doors on the windward side and then the design did not put an eave or a porch over the door. So it sounds like we have handle there for some of that moisture that is coming in and so forth, but that is going forward to make sure we have an eave over exhibit doors.

Mr. Lenny Rapozo: You know hindsight is 20-20 usually, and when you look at the way the Gym was designed, if we had turned the Gym a quarter this way and run the baskets this way because really those doors there, I believe, was for safety in case of emergencies, quick exit.

Council Chair Furfaro: (Inaudible) quick exit, but they are also if you use the Gym for an exhibition and you need to bring things in because you can see from the ramp and the door. So I am just saying, yes, it is 20-20. If I knew all the bad plays with the Colts, Manning would still be playing in Indianapolis. But the bottom line is, I am saying, those two things are important: the eaves on the doors that face the windward side and the fact of the matter is we should have some real concerns about the placement of the building itself.

Mr. Lenny Rapozo: Yes.

Council Chair Furfaro: So we have all learned from that and we look forward to how we are going to approach this with some of the ideas you have shared with us, including taking the wood so it does not bleed under the wood out at the threshold area too. I appreciate the update, but those are things we need to mark down to experience. Okay, Members? Gentlemen, thank you very much.

Mr. Lenny Rapozo: Thank you.

Council Chair Furfaro: I will take public comment. If I could ask you to please stay for public comment and then we will see you another time? Is there anyone else that is wanting to speak? I see Mr. Mickens' hands. Thank you, Lenny, thank you, Doug.

GLENN MICKENS, RESIDENT: Thank you, Jay, for the record Glenn Mickens. You have a copy of my testimony. Let me read it for the viewing public. First, let me say that in my opinion there is something very wrong with this entire operation. For this 15-year debacle with a leaking roof on the Kilauea Gym is truly a sign of the gross inefficiency of those who run our County government. Many times I have asked for the cost to the taxpayers, legal, administrative, and associated for this long ongoing mess and I have never received an answer. I just heard Mel mention the consultant cost, but I still did not hear any figure associated with his question. What happened to the parties to the repair contract for this roof leak? When any job is done involving a government entity, this project being County funded, a performance bond or surety bond is required from the contractor. If the contractor does not for any reason correct the fault in his job performance, the bonding company steps in and fixes the problem. So how is it possible that we have let this issue proliferate for so long? In fact, I believe that fairly recently I heard or read the entrance to this gym is still leaking or water is getting in and if this is true, why? Doug and Lenny just brought up this issue...a door leaking. But why didn't the original design take the wind and rain factor into consideration before it was built? It had to have a lean-to over it. To build a house, you know the rain comes in from a certain direction. You build a lean-to or something over that particular window to keep the rain from coming in. You factor that into the building contract. As always, one of the biggest unanswered questions is, who was responsible for this gigantic goof and waste of our tax money? Remember how long this thing has been going on. The buck has to stop at someone's desk. Why are we always so reluctant to find out who and take some kind of disciplinary action to make sure the mistake does not happen again? As long as people are put into positions not because of their qualifications for the job, but for political reasons, problems like this will continue to happen. Certainly mistakes can happen with most qualified persons in charge, but do we consistently have that type of a person as a department head. When will we have a performance audit of all departments thus knowing what kind of a bang we are getting for our buck? Private enterprise must have qualified people to do their jobs or the company will fail. Of course, we have the bottomless taxpayers' money to keep from failure. But where is the justification for that type of operation? Again, in thousands of municipalities, this job and oversight is that of a County Manager. I still say it is regrettable that we do not have one in our government. If there are any questions, I would be happy to answer them. Maybe you have answers to some of these things like I said I have asked for many years...

Chair Furfaro: I do not have a problem answering a couple of your questions but I do want to let you know I think I might have answered a few before but let us go through them one (1) more time.

Mr. Mickens: Okay. The cost factor, what is the cost for the legal people that we have...

Chair Furfaro: I will try and explain and then I will let you fire some questions.

Mr. Mickens: Thank you.

Chair Furfaro: First of all, after the gym was damaged there was a period of time where typically our repairs and our assets and so forth do not necessarily get the same scrutiny when the project is turned over to FEMA.

Mr. Mickens: Turned over to who, Jay?

Chair Furfaro: FEMA.

Mr. Mickens: FEMA? Okay.

Chair Furfaro: So FEMA did kind of a process where they made an evaluation, they identified the contractors to do the repair in the roof, and by the time the leaks were discovered whether they were from the washers or the nails that were used into the toe-tung roof, it was passed the warranty expiration. There was a negotiation. I think our legal department was involved with it and there were some costs associated with an expired warranty. This is in the very late 90's like 1999 or somewhere in there. With the expired warranties it became very difficult to pursue any satisfaction from the company that did the roof and bond issues were expired. I am only repeating this after I did my own research because as you know my hometown is Kilauea. The nails and washers became suspect in that process. That repair, the two (2) repairs came to a total of about \$265,000.00 with an expired warranty back in the late 90's.

Mr. Mickens: Who did that Jay? Who repaired it that time?

Chair Furfaro: I do not know the name of the contractor but it was the people that did the original roof. They did negotiate after the warranty had expired to fix it not once, but twice.

Mr. Mickens: Was that FEMA that had to bring those people in to repair that job?

Chair Furfaro: No, FEMA was out of the picture at that time. It was a repair or like a quick build to put the gym back in repair.

Mr. Mickens: Right.

Chair Furfaro: At the time under the building supervision codes we have now as you know recently we are now with CIP projects we are adding a contingency fee to the project so that we can have a building supervisor managing the project or a project manager, just like we did with this building with Pat Kawahara. He was actually charged, he is a County employee, but charged to this project. So we have done things a little different than we have in the past.

But the design you already heard me say that, we designed the building, it was flawed in a sense that it was, the exhibit doors were facing the Ko'olau side, the windward side of the building, it had no eave, so there was a design issue there.

Mr. Mickens: But who was responsible for the design issue then and not foresee the wind blows the same way, the rain blows the same way, yet we are sitting here with no cover for that door.

Chair Furfaro: Here is the name, it is obviously called a mistake. I was not on the Council then, Glenn, I am trying to answer your question.

Mr. Mickens: I appreciate that.

Chair Furfaro: I am giving you some core information that we have perceived.

Mr. Mickens: Right.

Chair Furfaro: Believe me, I am just as disappointed with the gym not being in the best condition because our seniors play there, our KPAL programs are there, our junior activities are there, but I hope I just answered a few of your questions. Who and when and what do we go after, hey, we will still have the time to review that. How do we fix it permanently is the way we are going now. But we have spent about \$265,000.00 over the last fifteen (15) years.

Mr. Mickens: But did that include the legal fees and everything that we have had for...

Chair Furfaro: That is pretty much everything, and that is two (2) repairs.

Mr. Mickens: Two (2) repairs. But if I heard correctly, the consultant for the job that put the new roof on we repaired the roof and it is still leaking. So do we not have some recourse there to go after whoever the consultant was or whoever the contractor was that put the new roof on that is still leaking?

Chair Furfaro: I am sure they are looking at that in this point in time. That is all I am saying right now, I am sure they are looking at that.

Mr. Mickens: Okay.

Chair Furfaro: That question has come on the radar screen but it has been an expensive and difficult process, we all agree with you on that.

Mr. Mickens: I am sure that you know, I do not know if you knew the person personally but there was a gentleman up there that broke his leg, slipped on that wet floor up there, I still remember the paper article about it. I think he broke his leg, he had a legitimate suit against the County but he did not do and they asked him why, and he said being a good citizen he did not want to see the gym shut down so the people had access to the place. So he refused to go ahead which I thought was a great gesture.

Chair Furfaro: I will agree with you, that was a very nice gentleman who did not pursue it but obviously we have to prevent it from happening again. On that note I have answered all of your questions.

Mr. Mickens: Right. Well again I do sincerely hope that whatever the problem is we fix it, it does not linger on and on. Put another roof on it, we could have built three (3) gyms for the price that it has cost for the roof right? Thank you Jay.

Chair Furfaro: I understand your concern.

KEN TAYLOR, RESIDENT: I certainly agree with Glenn's concerns that he raises. I had an experience with a roof problem when I bought my home here on the island and the builder came out and patched a problem that was identified in the escrow when I first bought it. After that we had some more leaks and so I started talking with some different roofing companies and one (1) after another told me that the roof had been improperly installed in the first place and that is why the roof, the leaks were showing up in different areas. With an architect and the information we had gained from the roofing companies we were able to solve the problem and it unfortunately cost the builder a lot of money to remove and replace the roof. But this thing has been going on a long time and I just do not understand why with today we have membranes that can be put on the roof that completely shield it from any water movement into the building. These same kind of membranes are used in building reservoirs and keep them from leaking and so on. Something terribly is wrong with, I have not been on the roof of this building but something is being overlooked or not talking and in my case my problem I talked with a number of roofing companies here on the island and there are some really good intelligent roofing companies. It seems to me that since we have been having problems that rather than spending a lot of money on consultant, we build things like the bike path with design build operations, there is no reason why some of the better roofing companies on the island could not do this same thing and guarantee it, it normally guarantees for labor is one (1) year and material for twenty (20) to forty (40) years depending on what material is being used. If we required in the installation of a new roof that the installer guarantee it for five (5) or ten (10) years yes it is going to cost a little bit more but he is going to certainly perform to the best of his ability. I really believe that by working with some of the top roofing companies here on the island that we would get a product that would solve this problem.

RICKY WATANABE, COUNTY CLERK: Three (3) minutes Mr. Chair.

Mr. Taylor: As far as the door is concerned a simple shed roof over that to protect it from the rain hitting the door would solve that problem. Again I just do not understand why in the world an investment of this magnitude, a gymnasium in the community would be allowed to have this kind of problem linger for so many years. I hope that in the near future that it is resolved and moved on. This is a sad state of affairs and it needs...I hear Jay's comments that yes no body was here back when it happened...

Chair Furfaro: I was not using that as an excuse Ken, I want you to hear what I said to Mr. Mickens. FEMA was involved in the project, two (2) years later the warranty expired.

Mr. Taylor: Right.

Chair Furfaro: We could not legally get the repair people back to the table under the warranty.

Mr. Taylor: I understand. But then the roof was re-done a second time or a new roof was put on as I understand it and we still have the problem. Something went wrong...

Chair Furfaro: So Ken have you written to the Building Department? We cannot direct them, I am just repeating what I have investigated during this period of time.

Mr. Taylor: I understand.

Chair Furfaro: There was a number of steps that happened that went awry, I agree with you on that. I also am very familiar with and the rubberized roofing is called a hypalon roof where it is a layer of rubber that can be put over there; that is an option. But I would encourage you and Glenn to take this kind of a collaborative knowledge you have and share it with the Building Department because we have just got...am I disappointed that they could not fix a roof on the windward side of the building for twelve (12) years, by gosh I am. I was the one (1) that pointed out to them in the beginning that they have not addressed the floor that has a twenty (20) year warranty on it as it is now cupping, it is actually convexed. So that correspondence is there but to come and share your information with us I would also encourage you to share it with the Building Department, I would appreciate that.

Mr. Taylor: I am just saying that it is on the agenda and this is the place to share our information.

Chair Furfaro: Yes it is.

Mr. Taylor: That is what Glenn tried to do and that is what I am trying to do.

Chair Furfaro: Right. And I am saying with your kōkua I would also encourage you to talk to the Building Department.

Mr. Taylor: It is available, all they have to do is ask. Thank you.

Chair Furfaro: I will ask them to be in touch with you. Lenny are you in the back? Would you check with these gentleman, they have more information to share with you.

LENNY RAPOZO, DIRECTOR OF PARKS & RECREATION: Sure.

Chair Furfaro: We will see if there is anyone else that wants to give testimony.

We have a motion to receive this communication, any further discussion? Yes JoAnn?

Ms. Yukimura: I believe it was an unusual time when the building was first repaired after the hurricane and I think the number of Damage Survey Reports and the infrastructure repairs was probably about \$100 million of repairs going on. So it was a very chaotic time. What concerns me is the flawed design because I think that is something we need to stop from happening and we can do that by the way we, well how we choose architects and also how we review their plans. So I am hoping that we build that into our system somehow so that we do learn from our mistakes and we incorporate it into our process to avoid those mistakes, some kind of feedback loop. In terms of the roof that is a really big problem that is hard to solve but I think we have to go with this process of getting a consultant and making a decision one (1) way or the other, whether we think we can

repair it or whether we have to replace it. We have to measure that against the life of the building and the issues that are connected to the floor repairs and all of that. Thank you.

Chair Furfaro: Thank you very much for those comments and I do agree, the flaw in the design, the having a better way to plan review on the turning of the building and then the recent action we have taken to have a project manager will all help to make sure that this does not happen again. Mr. Rapozo.

Mr. Rapozo: Thank you. I agree with Councilmember Yukimura. I still question why this project is in Parks, it should be in Buildings in my opinion. I understand it was turned over to Parks but our Buildings Division has the so-called expertise and the relationships that when we have a flawed design like this it is not a matter of a hole in the roof, this is a design issue, it is a Buildings issue. But that is just my opinion.

I just wanted to address some of the concerns, I do not think there is anyone more frustrated than the members of the Council that had to sit here and fund the extra work, the extra roof. I think it is clear to most of us here that the problem is not in the roof, it is the design. It is not, because we have tried it, so it is a design flaw, it is something in that roof regardless of what we put on top is going to leak. That is what is bothering me. I hate to spend more money on a consultant that is going to give us a plan on how we can repair the roof. I can tell you right now I would not support that. I would support a consultant with the scope to fix it, which means we need to re-design and it is really retrofitting the building with a roof that would work. Is it going to cost money – yes. Is it going to be painful – yes. But I do not want to, I do not know how long I will be here but somebody is going to be sitting here five (5) years from now having the same discussion if we continue to fix the so-called leak. If it is a design issue, we have to re-design that. Yes, it is going to cost money, I believe the life of that gym we do have a lot of life left so it is well worth the investment. I believe we need to fix that roof. So I guess my only request, Mr. Chair, would be as we move forward on the consultant that the scope should be to fix it, not to repair it, I mean replace it, re-design it, and fix it once and for all rather than keep patching and seeing the same damage.

As far as Park's plans to doing the immediate repair work for the floor I agree wholeheartedly. I think we need to fix those doors, re-do the doors and seal them so that we do not get any water...if you can see light through the door that means rain is coming in. Even a portuguese non-trained person can figure that one (1) out. So let us get that sealed and changed and fixed.

And then the other, my last comments was to Mr. Mickens and Mr. Taylor, it is frustrating. I know it is frustrating for the public because it all comes out of the taxpayers' money, and many of your comments are well taken. But I do want to say this and we have done the audit, the audit did come with some recommendations that now we must make sure we implement. But I have not seen anything through all the years that this issue has been on the table that would convince me that anything that was done was malicious or intentional by any of the employees in Buildings or Parks or wherever you looked. I do not believe anyone designed this gym to leak. It is a costly mistake because I think as the audit shows there were many things that we could have done better, but it was never done maliciously. It is a very expensive learning tool that we must use and as we move forward into different projects I do not know of any other building that leaked after we built it. I just commended Lenny and his crew for the bathroom renovation at Isenberg Park. I think we learn as we move forward. I will continue to say if we continue to pick at the wound, it will never heal. This roof needs to be replaced, it needs to be

re-designed so that we can fix it once and for all so we never have to revisit this again, and that is what I would request as far as going forward with the consultant. Thank you Mr. Chair.

Chair Furfaro: I do think it is realistic that we should have a report back in maybe ninety (90) days to understand where we are at especially with the ko'olau side of the building, the eaves, and a little bit more detail on what we can expect from a consultant. We will bring you back in ninety (90) days, Lenny I assume that is enough time, I see you acknowledging that. Please do get together with the two (2) gentleman that feel they have some other questions that need to surface and some other suggestions. Mr. Chang.

Mr. Chang: I cannot help to say this so I am going to just say it, I think there are a lot of people out there that are looking for work. I think there is a lot of talented people within the community, and yesterday as our Parks & Recreation Director Mr. Rapozo, Lenny, had stated a lot of our projects have been getting done a lot quicker, a lot much more under budget just because everyone needs, people need work. I am hoping there is somebody out there that is looking and understanding what our plight is because I think there is a lot of knowledge out there and I am hoping somebody will step forward and say hey it is a roof, we made a mistake, there is a problem, we understand that the tradewind weather, we understand where the rain is coming in from and I just hope somebody might be out there to say look I think it would be reasonable to be able to do this at this particular cost. They understand the plights of the fifteen (15) years of the past so I am just hoping maybe somebody might be out there to say look this is the technology that works here, here, here, here, here, we understand the tradewind patterns, we understand the rain, we understand the kona storms, whatever it is. I am just hoping maybe somebody might be out there and just kind of say look I think we can get this done for this amount of money, just to throw it out there, just to say look we want to try to kōkua the County, but here we will give you our mana'o for free and you guys take the ball and run from that. I just need to say that. There are people out there that I know they know what they are doing and hopefully this work can get done a lot more expediently and a lot more cheaper than we would imagine that it would be. I just want to say that based on the presentation yesterday. Thank you.

Chair Furfaro: My plan is we will receive this but we will surface a new item in July, members? All those in favor of receiving this...

Ms. Yukimura: Is there a motion?

Chair Furfaro: Yes we have a motion.

Ms. Yukimura: Okay.

The motion to receive C 2012-90 for the record was then put, and unanimously carried.

C 2012-125 Communication (04/12/2012) from Joseph Figaroa, Chair, Public Access, Open Space, and Natural Resources Preservation Fund Commission, transmitting for Council information, their 2011 Report to the County dated February 9, 2011, including recommendations for priority projects to be considered for funding: Mr. Kualii moved to receive C 2012-125 for the record, seconded by Mr. Chang.

Chair Furfaro: Motion and a second to receive. Mr. Figaroa I am going to ask you to introduce everyone if you can before I suspend the rules and let you make your presentation. We will start with yourself.

There being no objections, the rules were suspended.

JOSEPH FIGAROA, CHAIR, PUBLIC ACCESS, OPEN SPACE, AND NATURAL RESOURCES PRESERVATION FUND COMMISSION: Aloha, good morning. For those who are not familiar, I am Joseph Figaroa, Chairman of the County of Kaua'i Public Access, Open Space, and Natural Resources Preservation Fund Commission. To my right is Chairman Tessie Kinnaman, and joining me is chairman, I mean not chairman, Commissioner, I am sorry my mind is racing quickly, Commissioner Jean Souza. So myself, Tessie Kinnaman, and Jean Souza.

Chair Furfaro: When they first speak they can introduce themselves one (1) more time for the record for the captioner.

Mr. Figaroa: Sure.

Chair Furfaro: The captioner is not here on Kaua'i.

Mr. Figaroa: Sure.

Chair Furfaro: You have a presentation to make for us?

Mr. Figaroa: Yes. The reason why we are here today is to present the 2011 report to the Kaua'i County Council.

The Public Access, Open Space, and Natural Resources Preservation Fund was established in 2002 by the County Charter Amendment. It receives a minimum of one-half (1/2) of one percent (1%) of Kaua'i's annual certified real property taxes, and the fund accumulates and it neither lapses nor can be utilized for other purposes, and no more than five percent (5%) of this fund for administrative purposes.

The purpose of this fund is for outdoor recreation and education including access to beaches and mountains, preserving cultural and historical sites, protecting habitats and ecosystems, preserving forest, beaches, coastal areas and agricultural lands, protecting water sheds, conserving land to reduce erosion and run-off, improving access to public land and open-space, acquiring access to public land and open space, and conserving land for open space and scenic values.

Now, conserving land for open space and scenic values, the reason why it is highlighted in red is these are the actions taken due to the recent passage of Ordinance No. 925.

The status of the fund for this Fiscal Year of 2011-2012 is \$1,558,000.00. In 2011, the year in review, we have submitted a draft bill to amend Chapter 6, Article 14, Kaua'i County Code 1987, adopted by the County Council and signed by Mayor Bernard Carvalho on April 5, Ordinance No. 925. The Commission also worked to fill the ninth commission member vacancy which we selected Pat Gegan to be sworn in on April 26. The Commission established a new process to assist in the implementation of Commission recommendations by the County Council. The public, the 2011 public input process, the Commission conducted a survey of Kaua'i residents for suggestions on properties for acquisition (various means both new and standard were used), to increase awareness of the participation in the public input

process. One hundred-twenty (120) people attended three (3) meetings, twenty-six (26) responses were received through the survey process, and twenty (20) places on Kaua'i were suggested.

The Commission recommendations. The recommendations will be presented by Commissioner Tessie Kinnaman.

TESSIE KINNAMAN, COMMISSIONER: Aloha Chair Furfaro, Councilmembers, our Commission recommendations for this 2011 year. The recommendations that the Commission has put forward includes the number one (1) Salt Pond Beach Park expansion mauka and west and a buffer area for protection of the salt pans, number two (2) is a proposed Piwai, the Omao area, recreation area in the Kōloa district, and number three (3) Kaneioulouma Heiau complex preservation area expansion south in the Kōloa district. Other recommendations that the County could consider additional strategies include the Kukui'ula Bay through formal Hoban property in the Kōloa district, restoration expansion of the shoreline access from Lawaikai to Port Allen also in the Kōloa district, and third the Kauapea access and other unresolved public access issues.

The description for Salt Pond Beach Park expansion mauka and west, if you have any questions on that? Yes?

Mr. Chang: Tessie, thanks for being here. If I can ask you, when you go through the recommendations just for the public and the viewing audience, for example when you talk about Kaneioulouma, the heiau, can you explain geographically where these places are? Like the Kukui'ula Bay former Hoban property or the Kauapea Beach because a lot of people might not know it is Secret Beach or they might not know it is Po'ipū. So just when we go over this geographically they can kind of follow along with us where we are talking about these projects.

Ms. Kinnaman: Okay.

Mr. Chang: Thank you.

Ms. Kinnaman: For the Salt Pond Beach Park expansion, we are all familiar with the Salt Pond over in Hanapēpē, and the opportunity here is for the County to seek an executive order to transfer portions of State lands to the County of Kaua'i for recreational, cultural, preservation purposes. Expansion mauka and westward would allow repositioning of uses in the area for improved protection and establishment of buffers for the significant salt pans. The salt pans could fund the necessary subdivision process for the State-owned properties and acquisition of private property interest for a few properties on the beach park expansion. The expansion mauka and westward, part of the thinking here is we are thinking of a sea level rise because most of the beach park is on the shoreline and the mauka and westward would be more inland.

Ms. Yukimura: Question.

Ms. Kinnaman: Yes?

Ms. Yukimura: How much acreage are you talking about here? In fact for every proposed priority if you could tell us the acreage that would give us, that would be helpful. That must be about what, five hundred (500) acres or more?

JEAN SOUZA, COMMISSIONER: For that project we did not have a specific acreage amount for that area. We felt that a couple of things, one (1) there was a need to look for the future and there was a need also to address some of the run-off problems affecting the salt pan area. Most of the property is State of Hawai'i property that is on a month-to-month revocable permit. So it is, with the demise of sugar and the changes in the lease structure for the State-owned lands, we felt that there was an opportunity at this time to take a look at the lands west and mauka to see of that area which properties might be suitable for expansion of the park.

Chair Furfaro: So Jean, when we read the map is that the three-hundred seventy-three (373) acres that is with the State of Hawai'i? I guess is this a bonafide assessed value that you have got in the package?

Ms. Souza: These are just values that were available in the tax records, so a special appraisal was not done.

Chair Furfaro: So they are just the taxable assessed value?

Ms. Souza: Yes.

Chair Furfaro: And then that State of Hawai'i parcel that they currently lease to Gay and Robinson, do I read this right, I think that is Council Vice Chair's question, is that three-hundred seventy-three (373) acres?

Ms. Kinnaman: If the County is considering anything regarding the expansion, it would have to go through a subdivision process. So, yes. So it would probably be a portion of that three hundred (300) acres or...

Chair Furfaro: So that is the right number to answer Council Vice Chair Yukimura?

Ms. Souza: Well we do these maps, we identify the parcels as they are on the tax records.

Chair Furfaro: I understand but what you present to us is something that says there is \$1.531 million assessed value there and there is three (3) parcels, one (1) is the State of Hawai'i leasing land to Robinson, one (1) is the Robinson family partnership, and one (1) is a State of Hawai'i lease to the County. So for your presentation today, which would you want us to focus on?

Ms. Kinnaman: The larger parcel.

Chair Furfaro: The three-hundred seventy-three (373) acres?

Ms. Kinnaman: And Robinson.

Ms. Souza: Yes.

Ms. Kinnaman: And the Robinsons.

Chair Furfaro: And the Robinsons?

Ms. Kinnaman: Yes.

Ms. Souza: Well keep in mind that, I am not sure how current the assessed information is seeing that the State property is on a month-to-month revocable permit, I believe not to the Robinsons but to the quarry company.

Chair Furfaro: Yes. I was just reading for you what is in your report.

Ms. Souza: That is correct.

Chair Furfaro: Your report says Robinsons.

Ms. Souza: Yes.

Chair Furfaro: But these have not been appraised and instead of us focusing on Lokokai Road parcel 1.9 acres you are asking us to be looking at the bigger parcel.

Ms. Souza: Well the bigger parcel and the privately owned parcel.

Chair Furfaro: Yes.

Ms. Souza: Yes.

Chair Furfaro: Okay. And this parcel, this State of Hawai'i parcel you are saying is not subdivided as it is now?

Ms. Souza: No. We were told that if we were interested in something less than that parcel that it would need to be subdivided.

Chair Furfaro: Yes.

Ms. Souza: Yes. I am wondering if maybe I could elaborate a little bit more about how we come up with these...

Chair Furfaro: Well let me give Councilwoman Yukimura back the floor, I was trying to get clarity in the question she asked you and you have clarified it now.

Ms. Souza: Okay.

Chair Furfaro: She has the floor and I will give you some more time, Jean.

Ms. Yukimura: Thank you Chair. I just want to say, I only wanted to know the acreage that you are proposing for us to acquire on all of the priorities. I mean that is kind of, that will focus us on what you are...I was really confused to not have acreage on any of the parcels. Well, Kaneioulouma, it is pretty clear I think. So maybe you finish your report and we will have some discussion. I have a lot of questions about what criteria you use but actually my first question is I am not even clear what parcels you are actually proposing for acquisition. Some of it does not seem to have gone through enough planning process to know but then it makes it really hard to acquire.

Chair Furfaro: So I will give Jean the floor.

Ms. Yukimura: Chair, I apologize for interrupting the report actually. But I just was not clear about your first priority.

Ms. Kinnaman: First of all, I would like to know if you have our 2011...

Chair Furfaro: Yes, we do, I am reading it right out of your report.

Ms. Kinnaman: Because in our appendix C we have a description of each parcel.

Ms. Yukimura: But I am not clear on your first proposal how much acreage you are proposing to acquire. I am not sure that even you are sure.

Chair Furfaro: Let us give Jean the floor and so she can add to some narrative, you have the floor, Jean.

Ms. Souza: Actually Tessie is not finished yet.

Chair Furfaro: Tessie, you have the floor.

Ms. Kinnaman: The next one (1) would be the Piwai recreation area. That includes two (2) parcels and it is just above Omao. I guess you are all familiar with the Piwai wells?

Chair Furfaro: Yes we just went to the blessing.

Ms. Kinnaman: So it is a couple parcels up there that are owned by A & B. The property is currently used as a recreational vehicle park and there is motorcycles, all-terrain vehicles, and mountain bikes, and the acquisition would allow recreational users to continue in a safe and environmentally compatible manner with stewardship opportunities for the group. The acquisition is sizeable and compatible with the Commission's best interest in public hunting area C and the upland recreational potentials mauka of Kalāheo.

The third recommendation is the Kaneioulouma Heiau Complex Preservation area south. That is in Po'ipū, that is across the street of Po'ipū Beach Park next to Brennecke's Restaurant where the Nukumoi Surf Shop is located. The parcel is owned and is part, I am sorry, the parcel is adjacent to County owned land and is part of the cultural significant Kaneioulouma Heiau complex at Po'ipū. The public lands that covered under the County of Kaua'i adopt a park program agreement with the Hui Mālama O Kaneioulouma for the stewardship of the heiau. The parcel zoning is Open Special Treatment STC and SCP, Special Treatment Cultural and Special Treatment Public...

Chair Furfaro: Excuse me Tessie, on this one (1).

Ms. Kinnaman: Yes?

Chair Furfaro: The interior piece of these three (3) you got the parking lot in the corner, then you have this one (1) that is split, one (1) of those parcels is the County's?

Ms. Kinnaman: All above...

Chair Furfaro: I just want to know about the one (1) with the diagonal line.

Ms. Kinnaman: That one (1)?

Chair Furfaro: Yes.

Ms. Kinnaman: Below it or above it?

Chair Furfaro: Above it.

Ms. Kinnaman: That is County.

Chair Furfaro: That is County.

Ms. Kinnaman: Anything above that line there is all County, and it also includes the State parcel that they transferred over to the County.

Chair Furfaro: Okay. Got it.

Ms. Kinnaman: Just recently. The other, the next presentation is by Jean Souza.

Ms. Souza: Back when this report was being contemplated which would be in late 2011 and just in January and early February in 2012, there was a significant amount of frustration on behalf of the Commission. I brought forth in the last month some of the concerns that the Commission had and so in preparing this report I thought it was only fair to address this call for action section in the report, but to put in red some of the things that have happened or things that we have had discussion on to move it forward. So I wanted to acknowledge the tremendous quality of conversations we have had on this since this report was published. But I do want to at least mention that the Commission was frustrated that since 2005 when the Fund was established that only one (1) property has been acquired in spite of fifty-nine (59) site recommendations for thirty properties being submitted to the Council over the years. As a side note I will acknowledge that in the last month or six (6) weeks or so the Council has been actually quite receptive to the idea of using what we are calling the dossier process to focus in on to get specific approvals to pursue a plan to implement these recommendations. So for example for the Hoban property in the last six (6) weeks the dossier was submitted for your consideration, the Council did approve a process to start directing the Planning Department to start looking at an acquisition plan for that property. I think that that is one (1) tool that is new that can be used to move these projects forward from a recommendation stage to something that can be implemented.

The Commission has been frustrated since 2005 with pretty much the Planning Department's failure to address some unresolved access issues, and with expanded roles provided to the Commission in new Ordinance No. 925, we think that that can be moved forward and addressed. We are looking forward to further discussion on some real measures that can improve the commission's effectiveness. I think we are in the cusp of some major changes with Tessie and my leaving the Commission soon. We are the last of the first generation of Commissioners to this at that time new Commission. I think that there is some new changes that the Commissioners can move forward on and we are very relieved and happy with your approval of Ordinance No. 925. So we are open for questions. I wonder if I should just go into starting to answer Councilmember Yukimura's question about selection criteria? Would you like me to do that now?

Chair Furfaro: Actually if I recognize Councilwoman Yukimura then she can pose the question.

Ms. Souza: Okay.

Chair Furfaro: Let us follow some of the Council Rules here for a while. I want to get some clarity on these maps. Kahakai, this piece up here the inland piece the County owns, the tax map references a piece...

Ms. Yukimura: Which one (1) are you referring to?

Chair Furfaro: This one (1) right here.

Ms. Yukimura: Kaneiolouma.

Chair Furfaro: They have it listed here as Kahakai Condominium, it looks like, is that a condominiumized parcel with open zoning on it?

Ms. Kinnaman: Yes. It has been CPR'd into three (3) parcels.

Chair Furfaro: The parcel has been CPR'd but the zoning is open?

Ms. Kinnaman: Yes.

Chair Furfaro: And it is the one (1) that is most in limbo is the one (1) closest to makai side to the ocean?

Ms. Kinnaman: It is one (1) whole parcel and it is CPR'd and we are talking about the whole parcel.

Chair Furfaro: So the County of Kaua'i is an owner of part of a CPR? That is why I am baffled here.

Ms. Kinnaman: No. No. No.

Chair Furfaro: The other top piece is County of Kaua'i.

Ms. Kinnaman: Yes.

Chair Furfaro: Right?

Ms. Kinnaman: Yes.

Chair Furfaro: And the lower one (1) closest to the ocean...

Ms. Kinnaman: Kahakai.

Chair Furfaro: References Kahakai Condominium.

Ms. Kinnaman: Right. That Kahakai portion is the CPR'd portion, not the County's that is above. I hope I am answering your question.

Chair Furfaro: So it is a separate TMK and I am not looking at apartment A apartment B.

Ms. Kinnaman: Yes. Right.

Chair Furfaro: Okay. I am clear now. That is the only question I have on the presentation thus far, is there anyone else that has a question on the presentation before I turn it over to Council Vice Chair? Mr. Bynum.

Mr. Bynum: As always thank you for your work and I am referring back to the previous slide where you talked about frustration of access issues that have been identified since 2005. I just want to share your frustration on one (1) level and say that the legislation that we just passed it gives you more gives the Commission more clear authority to address those issues going forward, is that correct?

Ms. Souza: Yes.

Mr. Bynum: I do not, I mean it said Kauapea up there...

Ms. Souza: Sorry, we made some adjustments on the slides on the last minute and so that should have been deleted, that Kauapea Beach Access under unresolved issues should actually have been deleted from this slide.

Mr. Bynum: I see. As my recollection in 2005 that Kauapea Beach Access and Papa'a Bay were high priorities, is that correct?

Ms. Souza: Were of concern yes. That would be the Kauapea Access on the east side.

Mr. Bynum: Right, on the Kilauea side.

Ms. Souza: Yes.

Mr. Bynum: And then Papa'a Bay has fallen off the radar and I personally have made three (3) efforts since I have been on Council to try to address that. I recently spoke with the County Attorneys about trying to renew an effort there and I heard through the grapevine that Kauapea was being addressed at the Planning Commission. Do you have any details about this, what I heard about Kauapea being addressed?

Ms. Souza: We do not have that information.

Mr. Bynum: Okay. I basically interpret this as saying that Commission has had a lot of frustration but we are actually coming up with some mechanisms recently to try to address this. One (1) was addressing the legislation that clearly defined what the Commission can and cannot do, and the other was this process which I need to know more about, the dossier process, right? So that is a little optimism that I am hearing that getting past the stall, am I reading that correctly.

Ms. Souza: Yes.

Mr. Bynum: Thank you very much.

Chair Furfaro: To the Clerk, could I ask if we can get a County Attorney for this portion. If they are in the building or if they can call Mauna Kea. Council Vice Chair Yukimura.

Ms. Yukimura: I would like to know the criteria by which the Commission selected these priorities.

Ms. Souza: I have to admit that we have used different criteria at different times and so the criteria that I am going to be discussing for this list may not necessarily have been applied at other times.

As you will remember our 2010 report included many of these same parcels. The 2010 report did not include prioritization; it just included a list. So when we went out to get public input for the 2011 report, we felt that since there had been no movement on those sites we would go to the public and ask what their sentiments were on these properties and any other properties they may have. So it was a pretty targeted purpose that we went out to the public with. We held three (3) meetings in the community plus people could come to the Commission meetings to provide input, and we had a survey as well, an on-line survey, and a paper survey. We did not receive any input on some of the ones that were listed last time. In particular it was the Po'ipū Beach expansion makai next to the Waiohai property. We did receive public input on the ones listed here: Salt Pond, Piwai, and Kaneioulouma expansion. In fact, representatives of folks that are interested in the Piwai and the Kaneioulouma Heiau expansion are here to testify as well. For one (1) of the other sites that was recommended in 2010 we felt that further discussion was needed with the landowner to see if we could target in more the parcels that we could then come to you with more information about. So that is how we ended up with these three (3) and we ended up putting the priority one (1), two (2), three (3) because we felt that Salt Pond was low hanging fruit, that there was a rare opportunity at this time to acquire the property with very little cost. Both the folks with Piwai and Kaneioulouma are working to put together possible packages, acquisition packages and have been talking with some other folks about joining together to make that happen, pretty much along the same template as the acquisition of the property at Hanalei.

Ms. Yukimura: So if you want these properties to be acquired we need a package before it comes to us. I just want to say that when I sat on the Kaua'i Public Land Trust Board we had a set of criteria that we applied and it was like is this ready, is this project ready to go. When you do not even know how much you want to acquire it is not ready. Who will the end owner be and manager? Like for your Piwai recreational I do not know if that has been really clear that will hold the public interest and be able to manage it. Is there a management plan? What is the cost? Has an appraisal been done and it has to be yellow book in order to qualify for Federal money. Is it urgent? Will it be lost if we do not act? Is there a willing landowner? And of course the first cut is does it meet our mission and purpose? Sometimes public input is important but sometimes the parcels are, in fact it is very important, is there public support for it.

Chair Furfaro: Excuse me. This is my second warning Vice Chair that we need to take a caption break. So we are going to take a ten (10) minute caption break right now and when we come back we will have Vice Chair continue.

Ms. Yukimura: Thank you.

The meeting recessed at 11:22 p.m., reconvened at 11:37 a.m., and proceeded on its agenda item as follows:

Chair Furfaro: We are back from our caption break. I am going to give the floor to Vice Chair Yukimura when we took the caption break but I want to

make sure we finish your presentation and we will take public testimony. Vice Chair Yukimura you have the floor.

There being no objections, the rules were suspended.

Ms. Yukimura: Thank you Chair. I think in our offline conversation during the break it has become clear that we are still really working out different roles and responsibilities and how we are going to coordinate this in a way that enables the County to move effectively and quickly to acquire properties that we all want to acquire. And so I know there is a meeting scheduled to discuss that and probably some discussion subsequent to our meeting would be good. But I think there is still a lot to work out and I think the progress shown in your PowerPoint about how we are sorting out and expanding the role of the Commission, understanding how the staff interacts and interfaces is good and positive and we need to work on that even more. So I think that is it for now.

Chair Furfaro: Okay. Councilmember Kualii.

Mr. Kualii: Thank you Mr. Chair. Aloha to all of you, mahalo for being here and for the work that you do. Just some clarification questions, on the second to the last slide you basically said that that was a typo and the title of Kauapea Beach Access and other unresolved public access issues should just be deleted completely.

Ms. Souza: If I can clarify. It should have been deleted from this slide but the presentation today for you was to focus on the priority acquisitions. You will notice in the actual report there is a section called other recommendations and we chose in the interest of brevity to not address these other recommendations. So that heading should have been removed when we made the decision to not address the other recommendations.

Mr. Kualii: So I heard that clearly for that slide the heading that was wrong delete it.

Ms. Souza: Yes.

Mr. Kualii: But also in this other slide where it says Commission recommendations and it has one (1), two (2), and three (3), Salt Pond, Piwai, and Kaneiolouma, and then it has other recommendations right, and then it has three (3) bullets and the first bullet is Kukui'ula Bay, and the second is restoration and expansion of shoreline access Lāwa'i Kai to Port Allen, and then the bullet there the third bullet is Kauapea Beach Access. I am thinking that that is a typo as well because in your other report where it shows the year-to-year here in the current and prior years priority recommendations we can look at year 2011, year 2010, and year 2009. In year 2009 you had a second grouping which was called acquisition without necessitating funds so in that list the second bullet shows Kauapea East Access, Hanalei district. Then the acquisition grouping is very similar, Salt Pond, Kaneiolouma, and then I see how some was retained in year 2010. But in year 2010 there is a group for acquisition of priority recommendations and no longer is there a second sub-group of acquisition without necessitating fund. And then in this current year it has the acquisition the three (3) that you recommend and then other recommendations there are two (2) bullets, one (1) is access to Kukui'ula Bay and two (2) is restoration expansion of shoreline access. So either this is wrong or we need to add a third bullet for Kauapea Beach Access or this is wrong and we need to delete the bullet.

Ms. Souza: Okay. What needs to happen is this list of current and prior year's priority recommendations which is an attachment or an addendum, that needs to be corrected because Kauapea...

Mr. Kualii: So it is appendix E, I guess?

Ms. Souza: Appendix E. Yes.

Mr. Kualii: That should add a third bullet. Okay.

Ms. Souza: Yes. Under other recommendations.

Mr. Kualii: Yes. Thank you.

Ms. Souza: Thank you. Thank you for bringing that out.

Mr. Kualii: Sure thing.

Chair Furfaro: Are you finished?

Mr. Kualii: Yes. Thank you Chair.

Chair Furfaro: Okay. Very good. I checked with Planning and I checked with the County Attorney on the Kauapea East Access. Planning and the County Attorney is working on that and I am sure they are going to share with you folks in the very near future some of the options that they have. For me I am interested in the West piece, because the families' kuleana is on the Pukumoi side of Kalihiwai, and I think we are square on that access. It is the one (1) on the East that they have assured me they are going to get back to you folks on, just so you know that. Councilmember Nakamura.

Ms. Nakamura: I just want to thank you very much for your presentation and your work again this year. I just checked to find out how much will be going into the Open Space Fund this Fiscal Year, and it looks like it is going to be about \$386,500.00. So that will take you close to \$1.9 million in your Fund moving forward as of, I guess it would be July 1.

Ms. Souza: Could you repeat that again?

Ms. Nakamura: \$386,500.00 is what is currently in our budget that was presented to us.

Chair Furfaro: The proposed budget for the year 2013.

Ms. Souza: Oh 2013. Yes. Okay.

Chair Furfaro: 2013 is the amount Councilmember Nakamura just reported.

Ms. Nakamura: Also in the budget discussions the Engineering Division under Public Works we have asked them to also include in the work that they do coordination with the Open Space Commission on potential projects where either surveying or drafting is needed. I just asked that Planning and Public Works coordinate this work together because we do have some County resources that might be available. So that was another point I wanted to make and I wanted to clarify that this coming year you will not be producing an annual, a prioritized list

is that your understanding as well? I heard one (1) yes. Jean do you want to respond to that?

Ms. Souza: I think it is a definition problem. Based on our prior conversation and Ordinance No. 925, I believe that at the end of 2012 we probably will submit to you an annual update on progress in these last...

Ms. Nakamura: You will do an annual report that will not go away.

Ms. Souza: Yes.

Ms. Nakamura: But the whole public process to come up with a...will not be done this Fiscal Year is that your understanding?

Ms. Souza: Yes. It will done at the end of 2013.

Ms. Nakamura: Okay. That is fine. That is really an important point because to me that frees up your Commission and your staff to focus on action and research and all the work that goes into acquiring property and partnering with the organizations who have the capacity to do that work. So I am really hopeful that that will hopefully free up your resources, even the time, the number of meetings that you have, because that all takes staff resources to coordinate. So I am hoping that that can be now transferred into the doing and to accomplish some of the improvements so we do not see the same projects on the list year after year. So I am just looking forward to this new direction and we are going to be having more conversations about how do we move it forward and coordinate between the Council and the Commission. Thank you for your good work.

Mr. Figaroa: Thank you.

Chair Furfaro: Vice Chair Yukimura.

Ms. Yukimura: Can you tell me why Blackpot expansion is not on your list as a priority for the County? Or Po'ipū Beach Park Expansion? Either one (1).

Ms. Souza: I believe nobody had suggested those properties in this last go around.

Ms. Yukimura: Do you only go by what people suggest?

Ms. Souza: No. We also, the Commission, the Commissioners do have some information as well too, and expertise. So it is not just what the public says but the Po'ipū one (1) was on the list last time and I think there are some of us that still believe that it is important. It is just that for this report and when we did it we did not know that it was going to carry over for two (2) years; when we did it we were just assuming that we were going to do it every year. We felt hey let us focus on those that are doable and two (2) of them at least have a constituency to try to work on it.

Ms. Yukimura: Okay. My only concern is that if it is not on the list and if the staff does not work on it, and I have been told in one (1) case...first of all let us think this through. Is it not important to have that parcel to expand Po'ipū Beach Park? I think everybody thinks that it would be good especially if you think into the future. If that property gets sold and a house is built on it, like at Blackpot, it is pretty much gone; the cost and everything is probably prohibitive. So if we take

it off the list and there is no inquiry then it is gone, and on one (1) of the shoreline parcels that are (in that character) recently in escrow, the owner who is selling it, the seller, is saying why did the County not tell us they were interested in it? So just for the lack of asking we lose the opportunity. So that is why I am concerned that something like that would not be on our list if it in fact is by its nature inherently important to the community. We put ourselves in danger of not achieving our goals by not putting it on the list.

Mr. Figaroa: I am just going to speak freely in regards to that particular situation. There is a lot of properties that we as a Commission would love to see acquired either now, in the near future, or the distant future, but to according to my knowledge, when I became the Chairman of the Open Space Commission, I was notified that we are a recommending body and it is the Administration that has to do the legwork to get all of these things together so that we can be like okay this is ready, to a green light, or a red light. So all this time we have been researching and recommending and then from there we kind of present it to the department that is responsible and that is kind of what happens.

Ms. Yukimura: But your job is to put this list together right?

Mr. Figaroa: Yes.

Ms. Yukimura: This list of priorities for the community.

Mr. Figaroa: Yes it is to put a list together but like you mentioned that the landowner was not notified, that was...I cannot say that that is our fault.

Ms. Yukimura: No we are not looking for fault here but we are looking for what is a clear list of priorities for the community. Because if it is not on the list then it is not likely that staff or anybody will work on it.

Mr. Figaroa: Well that property was on a, according to my knowledge it was on a prior list.

Ms. Yukimura: I know but is it still a priority or by it being for a long time is it no longer a priority?

Mr. Figaroa: To us it is a priority.

Ms. Yukimura: Then why is it not on the list?

Mr. Figaroa: Well because to the community the Kaneioluma was a higher priority...

Chair Furfaro: Let us hold on.

Ms. Yukimura: You can put Kaneioluma higher, you could still say it is higher. I do not see this as an either or. I think Kaneioluma is ready to go and we should move for it.

Chair Furfaro: Let us stop right there.

Ms. Yukimura: So the question is...

Chair Furfaro: Vice Chair.

Ms. Yukimura: I am sorry.

Chair Furfaro: Let us stop right there. There is obviously some details to be worked out okay. Number two (2), when you folks make your recommendation, and I hope I do not have to say this publically again to the Planning Department, they should follow your direction on preparing the list.

Mr. Figaroa: Thank you.

Chair Furfaro: They should follow your direction on preparing the list. Yes we have lots of details to work out but that is in concert with Vice Chair Yukimura's comment - if it does not get on the list it drops off the radar screen. They follow your recommendations for the plan; you prepare the plan. There are details that have to be worked out, and I will be again encouraging Planning Chair Nakamura to be engaged with you folks okay? But we could carry this discussion on for a long time. Just hear what I had to say as the Chairman of the Council is saying it is your list, it is your recommendations, they need to kōkua you. Vice Chair.

Ms. Yukimura: My final comment is it is your list but it represents the public's priorities so the question is does your list represent the public's priorities? How do you judge whether it is the public priority? You need a set of criteria that helps you judge that. And so, we will go from there and we will work on this so that we can have lists that really result in us acquiring the top priorities for the County. Thank you.

Chair Furfaro: Thank you. I have Councilmember Nakamura's indication that yes as Planning Chair, she will be available to you folks to work on this criteria. I do want to take public testimony. Mr. Chang we are running out of time here for the day.

Mr. Chang: I am going to be as quick as I can. I want to just say to Mr. Figaroa, congratulations on your Chairmanship, and I also want to say with a very, very, very, very, heavy heart to Teresita Kinnaman and to Jean Souza, you folks will sadly officially be done with your duties on May 1 of this year. So I want to thank both of you for this wonderful report. All the mana'o that you guys have shared on a voluntary basis, and I guess Mr. Gegan is going to take over the Kōloa-Po'ipū-Kalāheo area, so we are going to be looking for someone in the 'Ele'ele-Hanapēpē?

Chair Furfaro: No. He is the at-large appointee. So Mr. Chang we still have two (2) more items to get through before lunch including Brennekes as I announced from the beginning. I want to congratulate these ladies just as much as you but let us get through this discussion and take some public testimony. You have the closing comment.

Mr. Chang: I have not gotten involved in this discussion so if I can only have my two (2) minutes if I will.

Chair Furfaro: Yes.

Mr. Chang: I wanted to because that means...

Chair Furfaro: Then do it now for the two (2) ladies.

Mr. Chang: Well I obviously just...I am trying to do it now. I am sorry that, it meant I was trying to make it, anyway I am done. Thank you.

Chair Furfaro: Mr. Chang, I appreciate what you are attempting to do but we got to move on with business today. Is there anyone that would like to speak on this item from the Open Space Commission now?

GLENN MICKENS, RESIDENT: Thank you Jay. I know you are in a hurry and I will make this very brief. I just want to sincerely compliment these Open Space Commissioners for all their dedicated work in acquiring lands that can never be developed for at least not for anything but recreational purposes. I think it is great. I believe that JoAnn asked some excellent questions about who is going to look after this land once it is acquired, maintaining it after we get it. We cannot properly maintain the recreation areas we have now so possibly this factor should be included in their Open Space plan or how they are going to do this. If larger budgets are ever approved for any issue I believe that the budget for acquiring these lands is an absolute top priority. As far as priority in using the funds goes which I heard you talk about I believe that these Commissioners have the ability to decide which course of action they will use to what lands they will get and I presume it is going to probably be on whatever funds are available because is it not going to be the biggest thing if they want a piece of land it is way out of the budget, the money they have they will not be able to get it. I just want to really thank these people. If there is one (1) organization on this island I think is outstanding, I think these people do it. Thank you.

Chair Furfaro: Thank you Glenn.

KEN TAYLOR, RESIDENT: Chairman and members of the Council, my name is Ken Taylor. I too want to thank the Commission for the work they have done; it is certainly going to be beneficial if it can get carried out to all of the island and future generations. It is really sad that the County some years ago put the Open Space Commission in place but for some reason or another did not put the back end of the activity in place to pick-up and follow through on moving forward with the recommendations that have been made. I just say under a management style of government this kind of activity certainly would not have dropped along the wayside. Thank you again Commissioners for all the work that you have done. Thank you for having this on the agenda today.

RON VICTORINO, JR., RESIDENT: I am here today to speak in support of the Piwai of Omao recreation area recommendation. I would like to thank the Open Space Commission. There is a need for this type of area for recreation as far as talked about motorcycles and ATVs and other recreational vehicles and also mountain bicycles and hiking. We are currently looking at different models that are out there as far as Councilmember Yukimura mentioning as far as packaging who has ownership, management, and operations. So we do have members or a core group that is currently and presently meeting to, we are looking at different options as far as like I said how do you manage this type of recreation area and there is a couple of models we are looking at. Obviously looking at additional funding to assist in the acquisition so I just wanted to speak on behalf of that and I am not sure if there is any questions that there may be at this point.

Chair Furfaro: I have no questions for you. Over the years I would like to see more participation from the Planning Department. We have one (1) planner there with the new hopes of in-between years they are going to focus more attention for streamlining conditions that we need to do for acquisitions. Your recreational project I would say it and say it publically this is money that the

Administration might want to pursue because it is a recreational area and we might be able to get money for the Open Space Commission on a bond float. But people across the street need to cultivate that thinking over this next year. We do not have a real good understanding of Salt Pond, I would like if we have money now to actually maybe identify about \$50,000.00 to do a geology hydrologist understanding of how the currents work and how water comes in and goes out from the Salt Beds. So those are things that I would encourage you to continue to work with the Open Space Planning Committee and see if we cannot lobby for another source especially on a recreational park if that is what we have chosen to pursue. On another note I really want to see some more administrative kōkua in Planning in this year that we are identifying new projects. Thank you for giving your testimony. Vice Chair Yukimura.

Ms. Yukimura: Thanks Ron for showing up and for bringing this project forth and I am glad that you folks are researching different ownership management models because one (1) of the key things is how much, who would maintain it, how it would be maintained, liability, insurance, all of those things that are up in the air until there is a proposal about how it would be addressed.

Mr. Victorino, Jr.: Right and that is something that we are working on and we do operate currently different events in that area utilizing this particular parcel on occasion. On a weekly basis we currently use property just adjacent to it owned by the Knudsens and we do maintain insurance, and we provide insurance for the events that we do. Maintenance, we do have people that utilize the property. We do have work days that we go out to clean-up and maintain the trails, put it back to the conditions that they need to be. So we do these things now so we have some things in place already that we are operating, but it is not to the point where we can propose at this point.

Chair Furfaro: Well Ron, my comments are very valid. If you have that kind of information please encourage it with the Administration and Planning because there might be another source for that money.

Mr. Victorino, Jr.: Right.

Chair Furfaro: Mr. Chang.

Mr. Chang: Chairman, I was just going to suggest if we can put this through Chair Bynum, if we could put this on an agenda item, because I think this is worthy of discussion.

Chair Furfaro: Well we will consider it in one-hundred-twenty (120) days to have some more discussion about it. But I think my message is kind of the same about let us make sure we are informing the Open Space Committee, the Planning Department and that information gets to the County Attorney on what the intents are. To talk about it now and over promise and under deliver will not be good.

Mr. Victorino, Jr.: I understand. Thank you.

Chair Furfaro: Mr. Chang are you okay with that? Is there anyone else that would like to testify on this item? Mr. Bynum, you want to talk discussion?

The meeting was called back to order, and proceeded as follows:

Mr. Bynum: Yes. I appreciate very much the work of the Open Space Commission and I am glad we have some optimism that we have passed some legislation and come up with some standards to actually move on this and get things done. Public Access and public land for recreation or preservation, I cannot think of a more important, can you imagine no public land at 'Anini Beach or no public land at Blackpot or Po'ipū Beach the size it was before the County took action in the past to acquire additional land? We look back and think oh my goodness why did we not take those opportunities? In some way the opportunities are good right now and I very much appreciate the comments from the Council Chair because we all know that real estate has an up-and-down cycle but over time it is an up cycle. We are in a down trough right now; this might be a good time to look at something like bond financing to spruce up because you could use this Open Space Access Fund to help pay some of that debt service. So if you have opportunities even if they look very expensive at the time, spread out over time, I am sure we would be willing to invest quite a bit to make sure we have places that are available to public, especially on the shoreline like 'Anini Beach, Blackpot, Salt Pond. Those were actions of previous leaders in government that left us those legacies so thank you very much for all your great work Tessie and Jean. For this Commission, you are poised to be more effective than has been in the past because we finally got some clear understandings, so thank you very much.

Chair Furfaro:

Vice Chair Yukimura go right ahead.

Ms. Yukimura: I do want to second Councilmember Chang's thanks and I know we all have said it at different points how much we appreciate the service of the outgoing Commissioners Jean Souza and Tessie Kinnaman. Their work has been tremendous and they laid the foundation for what we are going to do in the future and the time and heart that has gone into it is really a wonderful gift to us so we really want to thank you for keeping the fire alive. I like Councilmember Bynum's reminder what would life be on this island without our parks, our public areas whether it is Koke'e or our beach parks, or our small town active parks where people play soccer, and football, and baseball? These are all, and then you have our natural areas that the work of this Commission and the focus of it is extremely important to what I call the common wealth of our community. If you look at communities, what makes a community rich and wonderful and a good place to live is the common wealth. So this is really important work and I know we are still kind of struggling to find out how we do it well but it is very important. I just want to say not to let money limit our thinking or put us into competitive places where you have to not have one (1) on the list in order that we have the other on the list, that is not the way to think. If you look at Blackpot or other places where we have acquired land some seed money from our Open Space Fund but there is Federal money, there is State legacy land money, there is even private discounts on the land where we can piece together funding packages. And if you look at a lot of these things on the list they have not moved because of lack of money, they have not moved because we have not put the package together. Blackpot moved, our last purchase of the Hodge property moved because we put all the pieces together, and that is what we have to do between the staff, and I really believe it is more the staff, and the Open Space Commission put the package together and then come to us for the funding piece. So this is exciting work to do and I think we will learn how to do it well and our community will really benefit - the legacy is for generations.

Chair Furfaro: (Inaudible) further testimony I would like to, we have a motion to receive this item, can we coordinate one (1) move to receive?

The motion to receive C 2012-125 was then put, and unanimously carried.

Chair Furfaro: I want to make sure we all understand today is the day we are going to recognize our Administrators so we are going to start the next item but we will break at 12:30 p.m. and if we have to come back on that item we will. I wanted to ask the Clerk if you could please read Legal Document 2012-131. Thank you Ron.

LEGAL DOCUMENT:

C 2012-131 Request from the Office of the County Attorney for approval of the following for Po'ipū Inn – Wastewater Pump Station and Sewage Collection System: 1) Pump Stations' Operation and Maintenance Agreement between Po'ipū Inn, Inc. and the County of Kaua'i; and 2) Wastewater Services – Conditional "Will Serve" Commitment (TMK No.: (4) 2-8-17:01) letter dated April 2, 2012 from HOH Utilities, LLC: Mr. Bynum moved to approve C 2012-131, seconded by Mr. Kuali'i.

There being no objections, the rules were suspended.

Chair Furfaro: Thank you. Amy, is this an item that you are going to come to speak to us on before we open it up to the public?

AMY ESAKI, FIRST DEPUTY COUNTY ATTORNEY: No I do not have anything to state about the documents.

Chair Furfaro: Mr. Costa, are you coming to the table now?

IAN COSTA, DEPUTY DIRECTOR, PARKS & RECREATION: Just to say I am here to represent Parks; these agreements will end up with us. I also asked Jean Camp who is the project manager for this project so she can provide background if necessary. We also have Julie Simonton from HOH Utilities if there are any questions regarding HOH.

Chair Furfaro: Mr. Costa, will you give us a quick overview since you are going to be mandated to oversee this and give us a quick overview please.

Mr. Costa: This project has been in the works for quite a number of years, initiated by Mr. Bob French of Brennekes Restaurant. It involves installing a sewer line to connect up to the existing Po'ipū district sewer system. I guess from us at Parks we always viewed this as an important improvement to the environment. Right now the restrooms at Po'ipū Beach Park are served by septic systems and although the solids are collected in tanks and pumped, the liquids are drained into the ground, so this is a huge improvement.

Chair Furfaro: Thank you for the overview. I will let you sit in the audience if you would like or if you want to stay there you are more than welcomed to.

Mr. Costa: Okay.

JEAN CAMP, PROJECT MANAGER: We are just here to get these documents reviewed. The system is virtually complete, we are ready to make the final connections for the County restrooms. We needed approval from the Council for two (2) documents: the Will Serve Agreement and Operating and Maintenance Agreement, to allow us to make those connections and that will only take a day or two (2) and then you will be connected to the system. All the infrastructure is in place and ready and waiting to make that happen.

Chair Furfaro: Mr. Bynum.

Mr. Bynum: My understanding of this project is that it addresses the needs of a private landowner but does so in a public-private partnership that benefits both of us and it is kind of a win-win, would you agree with that, Jean?

Ms. Camp: Absolutely. This was an expensive project. Over fifty-two percent (52%) of the total cost is actually going towards the County; a quarter of that will be capital improvements, the other quarter of that was for all of the permitting and archaeology and other things needed to make this project happen. The County was very helpful in getting this thing done, it was complicated in the number of participants from the Marriott through private-public landowners. I cannot imagine anything that would not be better than to tie up that system and get everything out of potential leachate into the ocean, so I think this is a great success for everyone.

Mr. Bynum: I appreciate everybody's tenacity and Mr. French and our County Administration getting through these complexities and coming up with a win-win situation I think that we all agree. I am certain that this is going to pass today and we can be much more environmentally friendly in the Po'ipū beach area. Thank you to everybody involved because these issues are complex and I know it took a lot, so thanks Jean on behalf of myself anyway.

Mr. Costa: If I could I just wanted to point out we will have to come before the Commission on a couple of more items and that is to grant the final easements as well as to recognize and accept the gift that is being given to us through the construction of this utility.

Chair Furfaro: Ian, how long is the Will Serve contract?

Mr. Costa: Actually I am going to ask Julie to elaborate.

Chair Furfaro: You are going to have to introduce yourself and then answer the question.

JULIE SIMONTON, HOH UTILITIES, LLC.: The Will Serve is basically valid for the term of service. For something like wastewater service, I would imagine it would be quite a while unless there was, there is usually not competing wastewater services so it is as long as you want it. If something comes up and for some reason you want to stop, that is always your option.

Chair Furfaro: So are there any key events that we have to renew the Will Serve agreement or anything like that?

Ms. Simonton: No. No.

Chair Furfaro: It is infinity?

Ms. Simonton: As soon as we enter into agreement, and this is all governed by the Public Utilities Commission (PUC).

Chair Furfaro: Understood.

Ms. Simonton: Once we tell you we are going to provide services we are obligated to provide you service as long as you desire it.

Chair Furfaro: Or until another service is provided in the area and then it becomes competitive?

Ms. Simonton: Yes.

Chair Furfaro: That is true right?

Ms. Simonton: Yes. You have the option of going and doing whatever if there is another option.

Chair Furfaro: What are the terms of the maintenance of the system?

Ms. Camp: We have an operating and maintenance agreement draft that you are looking at and basically you can cancel that with mutual agreement of both parties. What would happen is every month based on the amount of water rate or use of disposal, you will pay a proportionate fee of the on-going maintenance cost, we will go into contract with the fact that HOH Utilities, LLC had the winning bid each month, you will be assessed a certain proportion of that cost.

Chair Furfaro: So we get an allocation but the actual rate of use is determined by rate already in the PUC schedule of services right?

Ms. Camp: The disposal rates in your agreement, the Will Serve covers the disposal rates for the actual waste material at the plant; the Operating and Maintenance Agreement covers just maintenance of the pump station and keeping that running so you can actually get the waste where it needs to go.

Chair Furfaro: Is it a lift station or a pump station?

Ms. Camp: It is a pump station.

Mr. Costa: And we share that cost with Brennekes.

Chair Furfaro: Okay. I do not have much more, I just want to make sure we have got those terms out in the public air, they know what the conditions of the agreement are and personally I am very pleased where we are at because we have been doing this the whole time I have been in the Council. Questions, members? Vice Chair Yukimura.

Ms. Yukimura: So what is the estimated monthly cost for the County?

Ms. Camp: There are several costs. Julie, maybe you could talk about just the disposal and I can talk about the maintenance.

Mr. Costa: We are having to budget approximately \$15,000.00 a year.

Ms. Simonton: Our rate is \$1.372 per thousand (1,000) gallons which is less than the County I might add. We are going to bill you based on your

water usage and it is only the water usage that are entering the comfort stations, it is not the water used at the showers, so it will be returned to the wastewater collection system. We are estimating that at about eighteen hundred (1,800) gallons per day so in a month it would be about fifty-five thousand (55,000) gallons, so at a rate of \$1.372. It is a usage fee of \$72.54 a month plus a monthly flat fee of \$13.57. So if you total about...\$86.00 a month.

Ms. Camp: For the operation and maintenance you will pay \$200.00 a month for the pump station at the western restroom, and you will pay approximately thirty-percent (30%) for \$400.00 of the shared pump station at Brennekes. You would also pay, if something breaks, then there will be a shared cost at the Brennekes pump station, have it replaced, and we have an hourly rate in the agreement with the providers for any other maintenance that might be required in that service.

Chair Furfaro: It is thirty-percent (30%) of \$400.00, the \$400.00 is not the thirty-percent (30%)?

Ms. Camp: Correct.

Chair Furfaro: So it is \$120.00?

Ms. Camp: Plus the \$200.00 for the western restroom.

Chair Furfaro: Okay.

Ms. Yukimura: So Mr. Costa said there is a figure of \$26,000.00 so maybe that is an annual...

Ms. Simonton: That is a one (1) time connection fee and it is essentially the County purchasing their share of the facilities that they are going to use in the collection system and the treatment system. Just to clarify, once the wastewater exits the new pump station that was constructed at Brennekes, it goes into force main that is going to be owned and operated by HOH Utilities. So when we talk about the O and M Agreement, that is just to get the wastewater from the County facilities and to that pump station at Brennecke's, and then once it passes Brennecke's it goes in all the facilities that are owned and operated by HOH.

Ms. Yukimura: But then you pay for that service?

Ms. Simonton: You pay for that service on a monthly basis.

Ms. Yukimura: Okay. I did not add up all your monthly costs but I am just trying to get...

Chair Furfaro: We are at \$306.00 right now.

Ms. Yukimura: Per month?

Chair Furfaro: Per month yes, plus whatever that hook-up fee.

Ms. Yukimura: Okay. And you have budgeted \$50,000.00 a year?

Mr. Costa: \$15,000.00 which includes both of those costs.

Ms. Yukimura: Excuse me. Okay. Alright. Sorry.

Mr. Costa: Also the CIAC is essentially comparable to what the water charges as an FRC charge.

Ms. Yukimura: Okay. Alright. I just wanted to know that factor. I know that, I mean I remember when you made the presentation before the Council and how it was going to be a very challenging job to get done and yet now here you are at the end of the project. Having accomplished it is quite an achievement on all your parts and it looks like the County is going to be benefiting from it, so I am grateful for that. I think certainly taking it out of cesspools or septic tanks is a good thing for the environment and hopefully it will mean that our park users will have a well functioning sewage system. Thank you very much.

Chair Furfaro: Mr. Chang.

Mr. Chang: Thank you Chairman. I am just following up on Vice Chair's request, can we get that in writing, just the breakdown of what it costs for this, that, that, and that. I have been trying to find out what is HOH and maybe a brief history.

Ms. Simonton: HOH is the entity that runs the wastewater plant in Po'ipū. it is the Po'ipū water reclamation facility. HOH is owned by Ian Kagimoto who founded Aqua Engineers. The name HOH derives from a water molecule. Actually, the way that the hydrogen and oxygen atoms are aligned, there is a hydrogen and oxygen and hydrogen, so it makes HOH, so it basically stands for water.

Mr. Chang: So Ian from the Aqua?

Ms. Simonton: Yes. Yes. It is a separate entity, it is regulated by the PUC. Our current service area extends to Kukui'ula in the west over to the Marriott Waiohai and Brennekes in the east and then mauka to Po'ipū Shopping Village and the housing developments around the Kiahuna Golf Course.

Mr. Chang: Okay. Thank you.

Mr. Costa: If I could, I do want to also acknowledge the contractor who works, they did a great job. They had their challenges as most of that is rock.

Chair Furfaro: Mr. KipuKai, do you have anything before I ask for public testimony?

Mr. Kualii: No.

Chair Furfaro: Before I ask for public testimony I would ask you folks if you can see and if there is any public testimony and certainly on behalf of the County I want to say thank you very much.

Mr. Costa: Thank you.

Chair Furfaro: Do we have any public testimony on this item?
Mr. Mickens no, Mr. Taylor no.

The meeting was called back to order and proceeded on its agenda item as follows:

Chair Furfaro: For you in the crowd I have an announcement after we take the vote not to just go to break but I have an announcement if you are here for another item. We have a motion, we have a second, as a legal document will this require a roll call? No.

The motion to approve C 2012-131 was then put, and unanimously carried. (6-0; Mr. Rapozo was noted as excused.)

Chair Furfaro: For those of you that are in the audience that might be here for what is posted as a 1:30 p.m. Public Hearing on Bill No. 2433, Bill No. 2433 are the technical and housekeeping corrections to the CZO bill, it is not going to be heard today, we re-scheduled when?

County Clerk: May 9.

Chair Furfaro: We rescheduled for May 9. If you are here for that item and want to give testimony we will receive it but Bill No. 2433 on the first phase of the CZO will be re-scheduled for May 9. On that note I am going to suggest that we go into recess, we are heading into recess until 1:30 p.m.

There being no objections, the meeting recessed at 12:26 p.m.

The meeting reconvened at 1:42 p.m. and proceeded on its agenda item as follows:

Chair Furfaro: Aloha we have returned from our lunch recess and as mentioned earlier, we will be moving the CZO Phase 1 Public Hearing until May 9 unless there is someone here to testify on that bill. I would make note that it will re-appear on our agenda two (2) weeks from today. On that note I would like to go into the area of Legal Documents again. I would like to deal with item two (2) in the category of Legal Documents which is C 2012-132 and may I have the item read?

LEGAL DOCUMENT:

C 2012-132 Communication (04/04/2012) from the Chief of Police, requesting Council approval to enter into a rental agreement with the Hawai'i Health Systems Corporation for use of 1.567 acres of land located at 4800 Kawaihau Road, Kapa'a, to be used for the new Kawaihau Police Substation, for \$1.00 a year for 50 years, including indemnification of Hawai'i Health Systems Corporation.

- Hawai'i Health Systems Corporation License 12-0171
Mr. Bynum moved to approve C 2012-132, seconded by Mr. Kualii.

Chair Furfaro: On that note, we have a representative here. We are very grateful for that, from I believe the Hawai'i Health Systems Corporate Office, Regional Office. Sir, I am going to suspend the rules and ask you to come up and we are very happy that you are here. Once we get that mic set for you we will ask for the record to introduce yourself and welcome.

JERRY WALKER, KAUA'I REGIONAL C.E.O., HAWAII HEALTH SYSTEMS: I am the Regional C.E.O. for the Kaua'i Region which includes Kaua'i Veterans Memorial Hospital, Samuel Mahelona, as well as the West Kaua'i Clinics that are in Port Allen and Kalāheo and Waimea.

Chair Furfaro: Well first of all, I just want to say that under the offer that has been presented through the Administration and this potential

location of the Kawaihau Police sub-station on a fifty (50) year lease for \$1.00 per year is a very generous position for your corporation to have taken for the community of Kaua'i. On that note we would like to recognize you and hear what you have to say about this offer.

Mr. Walker: The thirty-three (33) acres that are currently under our jurisdiction in Mahelona at one (1) time were over sixty (60). The elderly housing there was a section, I believe at one (1) time the fire station used to be under our jurisdiction, as well as a lot of the school property that is in that area. So currently it does include some ceded land, but the latest agreement that was settled with OHA takes care of anything prior. Between 1992 and 1993 I was a Deputy Director at OHA and generally when you go on ceded lands where it is a revenue reducing business you normally touch basis with them to get their blessings to go ahead and proceed. In this case because it is government to government, and traditionally under DLNR the leasing or rental of State land generally on governmental agencies it is normally \$1.00 a year, for non-profit entities it has its own base, and then for others it generally goes on fair market value. So we followed the general movement on that.

All of these lands have been transferred into the corporation, Hawai'i Health System Corporation, so we have both approval from the corporate board as well as the Kaua'i Regional Board. Currently I am the Vice Chair of the Hawai'i Health System Corporation Board. We have gone through all of that so Dr. Bruce Anderson was authorized to sign-off on behalf, the Region Board here also gave him permission to do that. So currently on the grounds on a short-term lease is Police activity which is the old civil defense building, and through their funding and things of that sort they have renovated the old facility as well as fenced it in, so that is something that we have worked on. The other thing in talking with the Commander before, part of the thing they needed to do was to resolve the tidal wave concern as far as that. So by moving the current Kapa'a Station up to where we are then solves that area. Also, we see it as a partnership in working with each other. We do have a nine (9) bed psychiatric unit there, as well as an emergency room which sees approximately six-thousand (6,000) patients a year, so there are times when some of our citizen's behavior gets beyond the norm, and by having the Police Station close it would facilitate both of us in helping in that area. But again it has helped us already just knowing with PAL there that we do not have homeless setting fires and wondering in the back as well as kids being truant going through the areas. So with the presence of the Police Station there, it solves a couple things and it also helps the school with some of their children that go there, it helps and facilitates our area.

We are still looking at further enhancing the campus there in the future to serve the needs of that side. Currently Kapa'a is the area where all the centralization of the population is located. We have Ho'ola located on our grounds and they do provide dental as well as they have a new physician Dr. Brown who is on staff and a physician's assistant. So, David Peters, they have been looking for funding and things in the past to enhance their footprint in that area. I believe with the addition of the Police Station located in that area it will benefit the school, the fire departments below, it takes care of the tidal wave concern. So if we need to bring in, what 1992 when we had the last hurricane, I was on a National Guard C-130 flying into Po'ipū looking down at what a big vacuum cleaner had done, and there was no trees standing and we landed at the airport and were housed in the State Building in the basement so the area up there is conducive to pre-plan incase of a disaster, to bring in helicopters of any size to pre-position and equipment and things of that sort. I believe it would be beneficial to all parties.

Chair Furfaro: I want to thank you for painting a very win-win situation for all concerned and I am going to recognize a few of the Councilmembers who might want to pose a question.

Mr. Walker: Sure.

Chair Furfaro: Again thank you very much for being here today.
Vice Chair Yukimura did you want the floor?

Ms. Yukimura: Just say thank you to the State and to Hawai'i Health...what is it called exactly?

Mr. Walker: HHSC.

Ms. Yukimura: HHSC for sharing the resource in a win-win framework. I think it will benefit both parties and the community and we look forward to working with you on other matters as well.

Chair Furfaro: Thank you. Mr. Bynum.

Mr. Bynum: Thank you Mr. Walker. You articulated really well the history of kōkua and help from HHSC and thank you for your support of Ho'ola up there and their expansion is great. This is truly a win-win, it is very much appreciated.

Ms. Nakamura: Thank you Jerry for being here and presenting that report.

Mr. Walker: You are welcome.

Ms. Nakamura: This approval is to enter into a rental agreement with HHSC specifically for the use of the Kawaihau Police Substation. In discussions with the Police Department about the use of this property, the question came up whether we might consider the possible other use, such as satellite County, let us say some place to pay your taxes or register for a car. Would that be out of line with the intent or do you see this as a would it only have to be a standalone Police Substation?

Mr. Walker: I think it is best answered on what is the scope or what is the organizational jurisdiction or what service does the Police Department provide and vehicles of course that falls in that area. If for whatever reason the legal people, you have two (2) types of attorneys those who tell you what you can do and those who tell you what you cannot do, so with that, if we did run into anything, it would just be a matter of putting in a request for additional services which may be not directly but indirectly still in their mission. It would just be a matter of going back to the process and amending it if we needed to.

Ms. Nakamura: I am not sure whether we are even going to go down this path, it was just a discussion point and one (1) that...because I see this area, this long-term master plan is providing a continuum of housing for the elderly, a mobile potential to frail elderly, that it might in the future be a full community with people who may not have access to vehicles but may want to engage in County services.

Mr. Walker: Right.

Ms. Nakamura: It is also in a residential community where people could, like my elderly mother-in-law, could walk to pay her taxes or pick-up a form or something. It would really, so it was just a concept that I wanted to just keep it on the table and wanted to share that with you.

Mr. Walker: From my experience like I said if the attorneys say they do not see any problem with that then it is just letters of agreement then we go from there. If there was some question then they would just be a request to include the following services to be provided. From the services that you have mentioned, the potential for being a one (1) stop area to acquire varied services, I think they all enhance what would be going on.

Ms. Nakamura: Thank you.

Chair Furfaro: Thank you very much Mr. Walker. Mr. KipuKai?
No. Mr. Chang.

Mr. Walker: Yes thank you Mr. Jerry Walker.

Chair Furfaro: As a North Shore resident I want to tell you how much we appreciate the emergency services being at that facility serving six-thousand (6,000) people a year, you know they are doing better than twenty-two (22) emergencies, and just being that much closer to the medical facilities has been a blessing for the North Shore. I want to say thank you very much for that. I do not believe we have any more questions other than to say at this point it is a legal document that will be reviewed by our legal department and we certainly appreciate you stepping forward and sharing this with us.

Mr. Walker: My pleasure.

Chair Furfaro: Thank you. Chief did you want to speak?

DARRYL PERRY, CHIEF OF POLICE: I know that Council had, we had presented the project, the Kawaihau Substation, and I just wanted to thank the Hawai'i Health Systems Corporation for being a partner with us and possibly making this concept come to fruition. I believe it is a symbiotic relationship that we have here where both parties can benefit from it, so that is basically what I wanted to say. I wanted to thank the Council for being here and supporting us and thank you.

Chair Furfaro: Thank you too, Chief. I do think it is as expressed by Mr. Walker it is a real win-win situation for both parts. Any questions for the Chief? Chief, we appreciate you being here and again for being able to actually in-person thank Mr. Walker, thank you. Is there anyone in the audience that wishes to speak on this item before I call for a vote? If not, this is approval by voice vote, we have a motion and a second.

The motion to approve C 2012-132 was then put, and unanimously carried.

There being no objection, the meeting recessed at 1:58 p.m.

The meeting reconvened at 2:01 p.m. and proceeded on its agenda items as follows:

Chair Furfaro: We are going to be at the top of page 2 please, and Rick I believe as soon as we are finished, the FFE guys want to come in here to change the table starting tonight so let us move forward.

C 2012-122 Communication (04/03/2012) from the Fire Chief, requesting Council approval to accept a donation of a watertender vehicle, valued at \$150,000.00, from the Honolulu Fire Department to be located at the Kōloa Fire Station and used for wildland fires, with shipping costs of approximately \$1,500.00 to be paid through the volunteer Fire Assistance Grant: Mr. Chang moved to approve C 2012-122, seconded by Mr. Kuali'i.

Chair Furfaro: Any discussion?

The motion to approve C 2012-122 was then put, and unanimously carried.

C 2012-123 Communication (04/03/2012) from the Fire Chief, requesting Council approval to accept the loan of a watertender vehicle, valued at \$100,000.00 from the State of Hawai'i, Department of Forestry and Wildlife to be centrally located at the Līhu'e Fire Station and used for wildland fires island wide, with shipping costs from Oakland, California, of approximately \$7,500.00, and responsibility for maintenance and repair of the vehicle: Mr. Bynum moved to approve C 2012-123, seconded by Mr. Chang.

Chair Furfaro: Discussion? I would actually want to send a mahalo letter to the Fire Chief for acquiring these committed assets to expand his fleet.

Mr. Bynum: And the donors as well, Chair?

Chair Furfaro: And the donors as well, yes.

Mr. Chang: Chair, I have a question.

Chair Furfaro: Yes.

Mr. Chang: This is approval to accept the loan so they are loaning us this?

Chair Furfaro: This one (1) is a loan for how long of a period, the one (1) above from the Honolulu Fire Department is a gift.

Mr. Chang: Do we know what the terms of the loan is?

Chair Furfaro: The term of the loan?

Mr. Chang: Yes.

Chair Furfaro: You mean like is it manuahi? I am assuming it is manuahi, only have to pay the shipping. We will send that question over.

Ms. Yukimura: For how long or in perpetuity can add that.

Mr. Chang: And you might want to explain to the captioner what is manuahi.

Chair Furfaro: I did the other day on the word pau, instead of p-o-w, but manuahi means a gift of free. Peter, are you going to follow-up on those pieces, who is going to follow-up? Thank you.

The motion to approve C 2012-123 was then put, and unanimously carried.

C 2012-124 Communication (04/03/2012) from the Executive on Aging, requesting Council approval to receive and expend funds from the Hawai'i State Department of Health Diabetes Prevention and Control Program in the amount of \$915.00 to be applied towards lay leader training or cross-training of the Stanford University's Diabetes Self Management Program (DSMP), or to have lay leaders from Kaua'i trained in the DSMP on another island: Mr. Rapozo moved to approve C 2012-124, seconded by Mr. Bynum, and unanimously carried.

C 2012-126 Communication (04/13/2012) from the Chief of Police, requesting Council approval to use asset forfeiture funds in the amount of \$5,100.00 to purchase an upgraded cellular software/license, hardware, and one year of automatic upgrades to be used in conjunction with the current UEFD Cellebrite uploading device: Mr. Rapozo moved to approve C 2012-126, seconded by Mr. Kualii, and unanimously carried.

C 2012-127 Communication (04/13/2012) from the Chief of Police, requesting Council approval for the transfer of County Self-Insurance Funds in the amount of \$17,834.00 to the Kaua'i Police Department Investigative Services Bureau (ISB)/Vice Narcotics Section for the purchase of a replacement vehicle: Mr. Rapozo moved to approve C 2012-127, seconded by Mr. Kualii.

Chair Furfaro: Any discussion? Mr. Bynum.

Mr. Bynum: I just want to point out that this is an unusual, I am approving this item but it is unusual in that we are transferring funds from the County Self-Insurance Fund. I do not think that has ever happened before and it has to do with the way we assigned all of the money last year in budget. This is something I want to follow-up with during our budget discussions and decision making, I just wanted to make that statement.

Chair Furfaro: Would you like to have Mr. Rezentes or someone from Finance over?

Mr. Bynum: Not today.

Chair Furfaro: Not today, okay. Any further discussion.

The motion to approve C 2012-127 was then put, and unanimously carried.

C 2012-128 Communication (04/13/2012) from the Director of Finance, transmitting for Council information the Period 8 Financial Reports for the Fiscal Year 2012: Mr. Chang moved to receive C 2012-128 for the record, seconded by Mr. Kualii, and unanimously carried.

C 2012-129 Communication (04/13/2012) from the Mayor, transmitting for Council consideration and confirmation, the Mayoral appointment of Michael Y. Nagano to the Fire Commission, County of Kaua'i,

Michael Nagano – for a term ending 12/31/2014: Mr. Kualii moved to receive C 2012-129 for the record, seconded by Mr. Chang.

Chair Furfaro: He is serving the resolution will get to later to the period of 2014.

The motion to receive C 2012-129 was then put, and unanimously carried.

C 2012-130 Communication (04/13/2012) from the Fire Chief, requesting Council approval to accept the donation of two (2) jet skis valued at \$13,723.97 each including shipping, and two (2) jet ski trailers valued at \$1,664.58 each, including shipping, from the Kaua'i Lifeguard Association: Mr. Kuali'i moved to approve C 2012-130 with a thank you letter to be sent to the Kaua'i Lifeguard Association, seconded by Mr. Chang.

Chair Furfaro: Any discussion? Mr. Chang.

Mr. Chang: Thank you Mr. Chair. I would like to acknowledge these donations and let the public be aware that these are brand new jet skis, brand new trailers, and they were the efforts of our community, led by Andy Melamed from Hanalei, and Dr. Monty Downs, and Pat Durkin, and all the good folks, Chief Westerman, in the first Lifeguard Association Fundraiser called the First Wave. The Second Wave as many know is going to be right around the corner on October 7 at the grounds of Kalamaku at Kilohana. Just want to thank the community because it was way above and beyond expectations, so just wanted to thank the people for supporting the watermen, in this case our lifeguards. Thank you.

Chair Furfaro: Thank you for bringing those comments up, anyone else?

Ms. Yukimura: Yes Chair.

Chair Furfaro: Go right ahead.

Ms. Yukimura: I just want to second that but also include them in our thank you letter.

Mr. Chang: Yes.

Ms. Yukimura: Thank you.

Chair Furfaro: It has so been noted that thank you letters are plural.

The motion to approve C 2012-130 with a thank you letter to be sent to the Kaua'i Lifeguard Association was then put, and unanimously carried.

CLAIM:

C 2012-133 Communication (04/03/2012) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Gregory Ted Preston for personal injury, pursuant to Section 23.06, Charter of the County of

Kaua'i: Mr. Kualii moved to refer C 2012-133 to the County Attorney's Office for disposition and report back, seconded by Mr. Chang, and unanimously carried.

C 2012-134 Communication (04/03/2012) from the County Clerk, transmitting a claim filed against the County of Kaua'i by EAN Holdings, LLC, for damage to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kualii moved to refer C 2012-134 to the County Attorney's Office for disposition and report back, seconded by Mr. Chang, and unanimously carried.

C 2012-135 Communication (04/03/2012) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Geico, as subrogee for Katherine & Steven Young for damage to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kualii moved to refer C 2012-135 to the County Attorney's Office for disposition and report back, seconded by Mr. Chang, and unanimously carried.

C 2012-136 Communication (04/05/2012) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Pierre A. Plotkins for damage to his personal property, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kualii moved to refer C 2012-136 to the County Attorney's Office for disposition and report back, seconded by Mr. Chang, and unanimously carried.

C 2012-137 Communication (04/10/2012) from the County Clerk, transmitting a claim filed against the County of Kaua'i by DTRIC Insurance Co., for damage to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kualii moved to refer C 2012-137 to the County Attorney's Office for disposition and report back, seconded by Mr. Chang, and unanimously carried.

C 2012-138 Communication (04/12/2012) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Robert H. Kure for damage to his personal property, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kualii moved to refer C 2012-138 to the County Attorney's Office for disposition and report back, seconded by Mr. Chang, and unanimously carried.

I. COMMITTEE REPORT:

HOUSING / TRANSPORTATION / ENERGY CONSERVATION & EFFICIENCY COMMITTEE REPORT:

A report (No. CR-HTE 2012-07) submitted by the Housing / Transportation / Energy Conservation & Efficiency Committee, recommending that the following be received for the record:

"HTE 2012-09 Communication (04/12/2012) from Committee Chair Yukimura, requesting the presence of Eugene Jimenez, Housing Director, to discuss the housing vouchers issued by HUD for Kaua'i County,"

Ms. Yukimura moved for approval of the report, seconded by Mr. Kualii, and unanimously carried.

PUBLIC SAFETY & ENVIRONMENTAL SERVICES COMMITTEE REPORT:

A report (No. CR-PSE 2012-03) submitted by the Public Safety & Environmental Services Committee, recommending that the following be received for the record:

“PSE 2012-01 Communication (03/28/2012) from Committee Chair Rapozo, requesting the presence of Larry Dill, County Engineer, to provide an update on the County’s response to the recent storm and flooding on Kaua’i,”

Mr. Bynum moved for approval of the report, seconded by Ms. Yukimura, and unanimously carried.

J. RESOLUTIONS:

1. Resolution No. 2012-22, RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO DEFINITIONS OF “SHALL,” “MUST,” AND “MAY”

Chair Furfaro: On the next two (2) resolutions you should have gotten a calendar passed out by the staff. On the next two (2) resolutions I have had members indicate to me that they had questions on definitions and some additional clarity, so I am going to ask for a deferral on these two (2) items for two (2) weeks. The deadline for us to get the Resolutions in-front of the Council is by June 1. The Council does not have to send the final reading of the proposed Charter Amendments until July 11 so we have time. So I am making a request on the next two (2) to let those Councilmembers have their questions answered and that we can defer this for two (2) weeks.

Mr. Bynum moved to defer Resolution No. 2012-22, seconded by Mr. Chang, and unanimously carried.

2. Resolution No. 2012-23, RESOLUTION PROPOSING A CHARTER AMENDMENT RELATING TO THE ESTABLISHMENT OF THE OFFICE OF THE COUNCIL ATTORNEY: Mr. Bynum moved to defer Resolution No. 2012-23, seconded by Mr. Chang, and unanimously carried.

3. Resolution No. 2012-35, A RESOLUTION APPROVING THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS TO REFUND ALL OR A PORTION OF THE OUTSTANDING GENERAL OBLIGATION BONDS, SERIES 2005A, PREVIOUSLY ISSUED BY THE COUNTY OF KAUAI.

Mr. Bynum moved to approve Resolution No. 2012-35, seconded by Mr. Chang, and carried by the following vote:

FOR ADOPTION: Bynum, Chang, Kualii, Nakamura, Yukimura, Furfaro	TOTAL – 6,
AGAINST ADOPTION: None	TOTAL – 0,
EXCUSED & NOT VOTING: Rapozo	TOTAL – 1.

4. Resolution No. 2012-36, A RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE FIRE COMMISSION (*Michael Y. Nagano*): Mr. Kuali'i moved to defer Resolution No. 2012-36 pending the scheduling of an interview, seconded by Mr. Chang, and unanimously carried.

K. BILLS FOR SECOND READING:

1. Bill No. 2424, Draft 2 - A BILL FOR AN ORDINANCE TO ALLOW SOLAR ENERGY FACILITIES IN THE AGRICULTURE DISTRICT

Chair Furfaro: I want to make sure I understand this, item five (5) Resolution No. 2012-37, we are going to hold until approximately 4:30 p.m.?

Mr. Kuali'i: If Bill No. 2424 goes quickly and we can end our day, there is not any other business then we have to do it. I think Councilmember Rapozo was coming back and he and I introduced it, and there were couple of people that wanted to testify. I can text them now if we think they need to come earlier.

Chair Furfaro: Will you do that, if we finish business we will take another ten (10) minutes break, you text them and tell us what they say.

Mr. Kuali'i: Okay.

Chair Furfaro: So then we are going to Bills For Second Reading and then we are going to go onto a recess.

Ms. Yukimura: Move to approve.

Chair Furfaro: We have someone that wants to give testimony on this one (1) too. We texted them, and that was my fault, he was here from early morning. I said we would call him. Is he close by? He is coming? Okay.

Ms. Yukimura: I think we can pass this Bill No. 2424 though.

Mr. Bynum: Somebody wants to testify.

Ms. Yukimura: Oh he wanted to testify.

Chair Furfaro: He was here from this morning.

Ms. Yukimura: Excuse me.

Chair Furfaro: He might be testifying in support of it, I am not sure.

Ms. Yukimura: I do not know.

Chair Furfaro: But I would rather give ten (10) minutes.

Ms. Yukimura: Of course.

Chair Furfaro: Councilmember KipuKai, if you can report back to us on the other one (1) when we return, we are going to take a fifteen (15) minute recess.

There being no objections, the meeting recessed at 2:18 p.m.

The meeting reconvened at 2:33 p.m., and proceeded on its agenda items as follows:

(Councilmember Nakamura was noted recused at 2:33 p.m.)

Chair Furfaro: We are back from the caption break and we are doing items "K. BILLS FOR SECOND READING" and I would like to read the bill first, then we will take a motion and a second, and then I will take testimony.

Chair Furfaro: Is there any...Council Vice Chair Yukimura.

Ms. Yukimura moved to approve Bill No. 2424, Draft 2 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Mr. Chang.

Chair Furfaro: Is there anyone in the audience that wishes to testify on this bill for second reading? Come up and introduce yourself.

There being no objections, the rules were suspended.

WES BENNION, SOLAR CITY: I work for a company called Solar City. We are in negotiations with KIUC for a large solar farm. They are interested in purchasing some more solar but they do not have a site yet, they do not have a land site yet basically. So myself and my colleagues at Solar City used our connections and reached out to the largest landowners in Kaua'i. We found a site perfect for solar, it is actually in the south end of the island in Kōloa right next to the Kōloa switch yard that KIUC has. It is probably one (1) of the best solar resource on the island, it is a twelve megawatt (12 MW) dc solar energy system, and this is ag land and it is rated D. So this bill that is brought before you will allow us to bring down the cost and time associated with installing a solar energy system. As you know solar energy systems being built all over the island they create jobs and we would be looking to have local installers come and install so we would be hiring people from the island. Solar energy is a clean-renewable resource and it is one (1) of the best ways to generate electricity. I think you guys are currently generating electricity through diesel fuel and what that does is that allows not only your gasoline but your electricity too, the cost and the price of it to fluctuate with the oil prices. Whereas in the solar energy system you are pretty much guaranteed the sun is going to come up every single day. We have thirty (30) years of data, weather data, that we can predict how much electricity is going to be produced from solar electric energy system. So this is kind of locking your rates in for a good twenty (20) to twenty-five (25) maybe thirty (30) years sometimes. So solar energy is going to be the future of this island to become sustainable, so I would request that the Council to approve this bill and to let us get this renewable energy front happening quickly.

Chair Furfaro: First before you began your testimony I want for the record to make note that Councilmember Nakamura has recused herself from this agenda item. Number two (2), we keep having people come and testify in regards to their collaboration with KIUC but we never see a letter from KIUC, we never see a KIUC person, so I am going to ask you some pretty straightforward questions.

Mr. Bennion: Sure.

Chair Furfaro: How much solar source for power does KIUC currently have?

Mr. Bennion: Currently they have...they are in contract, let me think, I think about fifteen to twenty megawatts (15 to 20 MW) worth.

Chair Furfaro: On what kind of acreage are you talking about for your property?

Mr. Bennion: For our property it would only be fifty (50) acres, roughly fifty to fifty-five (50 to 55) acres. They currently are in contract with another solar integrator for the Anahola site and that is around the same acreage. They also have a 1.2 MW facility in Kapa'a just above Kapa'a.

Chair Furfaro: Right, we know that.

Mr. Bennion: And that is probably four to five (4 to 5) acres.

Chair Furfaro: That is good.

Mr. Bennion: Okay.

Chair Furfaro: How much will they need.

Mr. Bennion: KIUC has told us that this is the last renewable project for solar electric. They will do other means but I think that at this point they are looking, this is their last solar project.

Chair Furfaro: So they actually have four (4) projects going, they have one (1) that they are doing with A & B.

Mr. Bennion: Yes.

Chair Furfaro: So this would be their last.

Mr. Bennion: That is right, they have one (1) with A & B and this will be their last and that is from what they said. There is also if I may...

Chair Furfaro: No you may not.

Mr. Bennion: Okay.

Chair Furfaro: I am not happy with Planning and I am not happy with KIUC. They keep sending us people who say this is our last project, this is our last project; we, as we give up ag land for these processes, need to know what their strategic plan says.

Mr. Bennion: Sure.

Chair Furfaro: So you cannot answer for them.

Mr. Bennion: Right.

Chair Furfaro: They did not share it with you, they did not come to support your testimony, but not to worry that is our issue with them.

Mr. Bennion: Okay.

Chair Furfaro: Now let me ask you, if you do this project what terms of the lease would it be?

Mr. Bennion: The lease for the land are you asking?

Chair Furfaro: Yes. How long will you lease the product to them?

Mr. Bennion: We do not lease anybody anything, it is going to be a cash purchase from KIUC, their grant from the USDA very, very similar to Anahola. So we will sell them a system, we will not finance anything, but since they do not have or they do not own or they do not have control over the land, there will be a land lease correct.

Chair Furfaro: Okay. Do you know how long it is for?

Mr. Bennion: Twenty (20) years, that is preliminary right now.

Chair Furfaro: That is good. In the long-term you said it is planning to bring down the rates?

Mr. Bennion: For sure.

Chair Furfaro: That is what you said, for sure.

Mr. Bennion: Yes.

Chair Furfaro: Do you have any idea what that outcome would be?

Mr. Bennion: You mean as far as the kilowatt hours?

Chair Furfaro: Yes.

Mr. Bennion: I can speak generally. You guys are probably paying up in the \$0.40 per kilowatt hour right now?

Chair Furfaro: Yes.

Mr. Bennion: So this will bring it down to roughly in the range of ten (10) to fifteen (15) cents a kilowatt hour.

Chair Furfaro: Mr. Bynum.

Mr. Bynum: I think I know this answer I just want to, this is not a purchase power agreement, your company is developing the project and selling it outright to the utility?

Mr. Bennion: Correct. This is exactly what happened with the Anahola project, another solar integrator sold.

Mr. Bynum: Thank you very much.

Chair Furfaro: Thank you for clearing that up. Mr. Chang.

Mr. Chang: You know when you say jobs are going to come do you folks have local installers on Kaua'i or are you going to be using bringing in the installers?

Mr. Bennion: We will bring in a foreman somebody to lead the construction project, we might bring in part of our installation team but mainly we are going to rely on, it just makes perfect sense to rely financially speaking and socially speaking on the Kaua'i population.

Mr. Chang: Can you familiarize us with any projects happening in the State where you might have them on other islands?

Mr. Bennion: We have on O'ahu and on Maui. Maui we have the Cultural Arts Center that we have installed and we did a press release and everything that was great, that was completed about two (2) or three (3) years ago, I am sorry two (2) or three (3) months ago. And so we have not installed any projects on Kaua'i. Infact myself when I was with another solar integrator, I was the designer for the Kaua'i Community College project that is up there now. So I was at my desk in California laying that out on the roof top there, so I do have experience on Kaua'i, but yes, we do have many, many projects, a lot of them residential on O'ahu and Maui.

Mr. Chang: Okay. Thank you, Wes.

Mr. Bennion: Sure.

Mr. Chang: Wes, I just want to let you know we just received testimony...

Ms. Yukimura: We got it on the 14th of March.

Chair Furfaro: Okay well I have not read it since then, but this was from the previous presentation that we got this from Brad Rockwell. It was just dusted off and sent to us, so I am going to ask Mr. Chang to put something in his Economic Development piece, so we can get an update of where they are at, and if they are telling you this is their last project, well we would like to hear it from them as well.

Mr. Bennion: Sure.

Chair Furfaro: So anyway is there any more questions for him?
Vice Chair Yukimura.

Ms. Yukimura: Thank you for your testimony. I think though that when you say it is going to lower the rates, it is not really the rates to the KIUC rate payers at this point, it might be the purchase price of KIUC, but if oil continues to rise for the other sources of electricity, oil prices continue to rise, I think it is a little too soon to say it is going to lower rates.

Mr. Bennion: Sure yes. The way I see it, this is not the way that most utilities are, but this is a cooperative, right, so basically all the rate payers are the owners is that right?

Ms. Yukimura: That is correct.

Mr. Bennion: Okay so if the rate payers are actually buying the system, they should get a lower rate would you not say?

Ms. Yukimura: They may for the kilowatts that you are producing but that is not what determines the rate to the rate payer.

Mr. Bennion: Right.

Ms. Yukimura: So it still makes us eighty or ninety percent (80% or 90%) oil based or fossil fuels for energy; it is going to be a while before the rates go down. At this point I think our biggest goal is to stabilize the rates. But I do not see it is going to lower rates for rate payers at this point, it will ultimate... and it is not firm power so we still need back-up power that is probably going to be fossil fuel based for quite a while.

Mr. Bennion: Right. Yes. You are right and that is a good point. I cannot control anything that the KIUC Utility does, they may or may not pursue more projects; they told me that they have not...

Chair Furfaro: But that is the problem.

Mr. Bennion: I know.

Chair Furfaro: We do not know fifteen percent (15%) of seventy-eight megawatts (78 MW) that is what we do at peak. They are saying but no more than fifteen percent (15%) will be solar, and as Vice Chair Yukimura says, the solar is not firm power once the sun goes down.

Mr. Bennion: Right, correct.

Chair Furfaro: It might be able to serve a couple of hours of battery pack, but I just want to make sure you understand that we are welcoming you for your testimony, but we do not have all the pieces and we have been asking for them for a while.

Mr. Bennion: May I say that this is not just a concern.

Ms. Yukimura: Absolutely.

Chair Furfaro: We know that. I do not think what you are hearing is we have had several people come before us about a solar farm and none of them came holding hands with KIUC.

Mr. Bennion: Okay.

Chair Furfaro: We just heard from you this is KIUC's last project.

Mr. Bennion: Correct. Yes.

Chair Furfaro: Where is that documented? Is that something that Planning has information for us on? We do not know.

Mr. Bennion: Our company is meeting with KIUC tomorrow morning, so I will talk with them for you, hopefully I will get a letter written for you about that.

Chair Furfaro: I wish you all the world in conveying to them a letter that tells us this is the last project and all the particulars and what their plan is if you come online how do we handle the requirement at peak demands for firm power.

Mr. Bennion: Can I ask a question because I do not understand your concern on whether or not it is going to be their last project?

Chair Furfaro: Because we are in the middle of a quarter million dollar funding for important ag lands study and we are wanting to make sure we can identify what lands we want to preserve for agriculture in the classification of A and B category soils. Yours is the first one (1) we have seen is all on C and D which is great, but we do not want to bump heads with the ag plan. Does that help you understand?

Mr. Bennion: Yes. I understand completely. The State Senate Bill that I have here does not list A land as it pertains to this bill that we are trying to come to a decision on, it just lists B, C, D land and E I believe too. However...

Ms. Yukimura: You are absolutely right. The B lands are what we are concerned about because they are very good lands too.

Chair Furfaro: That is what we are concerned about. But they are saying they want to allow in this bill to override the County's jurisdiction on B lands.

Mr. Bennion: Sure.

Chair Furfaro: We do not agree with that, that is another component.

Mr. Bennion: Could there be some middle ground like can we...

Ms. Yukimura: This is the bill that...

Chair Furfaro: The bill that is in-front of us is the middle ground.

Ms. Yukimura: Exactly.

Mr. Bennion: So there is not anything that could just erase or just cross out the letter B in that solar bill, is that right?

Chair Furfaro: The issue with our bill is we want to be selective in how much we allow to encroach on B land.

Mr. Bennion: Right.

Chair Furfaro: The State Bill in that political subdivision oversteps what we desire to have.

Mr. Bennion: Right.

Chair Furfaro: That is the problem. We have not heard anything from KIUC but they walked in the door, the calvary is here to tell us that yours is the last project, we have not seen anything. We are hearing it from you first time.

Mr. Bennion: Yes. Okay. Let me just say one (1) quick thing and that is that solar can be, and my company Solar City is also in negotiations in offering a battery back-up. Currently we are doing this right now with residential, and we do not have, it is not a sister company but there is a company called Tesla Motors and the CEO for Tesla Motors is our largest shareholder. The CEO for Tesla Motors and our CEO got together and now we are offering battery back-up. So that kind of alleviates the need for just generating solar during the day and then you do not even need the grid right? So at that point it blows it up to anybody who wants it, anybody who wants electricity, and can invest in it, and essentially have free energy.

Chair Furfaro: At that point that is a great option but we cannot respond to you on an item that is not an agenda item, and the agenda item is not the battery back-up from the other partner, the agenda item is this solar energy and our need to kind of probe how much are we going into B lands.

Mr. Bennion: Okay. Sure.

Chair Furfaro: I appreciate your testimony very much, I more so appreciate that your project is looking at C or D land application. Vice Chair Yukimura.

Ms. Yukimura: Thank you. On that point, you said it is on D lands?

Mr. Bennion: Yes.

Ms. Yukimura: Is that all D?

Mr. Bennion: It is completely all D land yes.

Ms. Yukimura: That does make it an attractive project in terms of saving the best ag lands. Thank you very much.

Mr. Bennion: You are welcome.

Chair Furfaro: Thank you. Is there a representative from KIUC that came over to talk on this resolution? The testimony, first of all you need to introduce yourself.

MIKE YAMANE, CHIEF OF OPERATIONS, KIUC: Mike Yamane, Chief of Operations for Kaua'i Island Utility Cooperative.

Chair Furfaro: Mike, the testimony that was given to us had said they are meeting with you tomorrow and this will be your last attempt to expand ag land for solar power.

Mr. Yamane: They are one (1) of the three (3) finalists that we are meeting with.

Chair Furfaro: Okay, we did not hear that part, they are one (1) of the three (3) finalists?

Mr. Yamane: Yes.

Chair Furfaro: Okay. Well that answers that question. We still also want to find out and they dug out the testimony from March for this presentation to us that indicated your effective limits on solar power units on ag land will be how much of your total megawatt production at peak time?

Mr. Yamane: I believe twenty-five (25) to thirty (30), it is still the same, nothing has changed since then, the testimony still stands. It is a natural limitation from a grid maintenance standpoint.

Chair Furfaro: So the twenty-five to thirty percent (25%-30%)...

Mr. Yamane: Megawatts not percent.

Chair Furfaro: Is it percent of your megawatts, no, it is twenty-five to thirty megawatts (25 to 30 MW) which is then thirty-two percent (32%) of your peak demand.

Mr. Yamane: Yes it is, that is a true statement but there is a caveat there because of our peak that exists at night, so effectively that number is not relevant, you really need to go from what our load is during the day when the solar is on.

Chair Furfaro: So what percentage of that...

Mr. Yamane: If you look at it it is about half, fifty percent (50%).

Chair Furfaro: It is fifty percent (50%) and will encompass in your estimates generating...I think we got two (2) acres up in Kilauea that is generating 1.2 megawatts?

Mr. Yamane: There is no...in Kilauea, there is one (1) in Kapa'a.

Chair Furfaro: That is from Bosshard.

Mr. Yamane: Kapa'a. One megawatt (1 MW).

Chair Furfaro: On two (2) acres right?

Mr. Yamane: No it is about five (5) acres, it is about four (4) to five (5) acres.

Chair Furfaro: What are the ratios and how can we get that in writing?

Mr. Yamane: What the acres...

Chair Furfaro: If you are generating fifty megawatts (50 MW) in the day time, and we are only going to calculate peak day time, but you said fifty percent (50%) of your power will come from solar, what is that equivalent to in total acreage?

Mr. Yamane: Well if you go four (4) to five (5) acres per megawatt that is thirty (30) times five (5), so one hundred fifty.

Chair Furfaro: That is what we are looking for in writing from KIUC. That is what we are looking for all these times was what at your estimates

your total ag land usage in all classes will be for the issuing of solar power to contribute to the grid. Can we get that in writing?

Mr. Yamane: Does not what is in the testimony cover it here?

Chair Furfaro: I am very disappointed that you are just telling us to depend on the testimony which does not even have the KIUC logo on it or anything.

Mr. Yamane: Okay. We can do that.

Chair Furfaro: Thank you. That is what I am looking for, the document that I know your Board signed. Council Vice Chair Yukimura has a question for you.

Ms. Yukimura: Not a question, I just wanted to explain that based on that testimony...

Chair Furfaro: Again JoAnn, that is testimony...

Ms. Yukimura: And I do not mind having something in...

Chair Furfaro: I want something that I know the Board of Directors have signed off on.

Ms. Yukimura: Okay.

Chair Furfaro: And that it goes on KIUC stationary.

Ms. Yukimura: Okay, that is fine.

Chair Furfaro: I hope it is fine.

Ms. Yukimura: I did not...

Chair Furfaro: It is a reasonable request.

Ms. Yukimura: Yes. I did not, because we were taking testimony first and we really have not had any discussion on the Bill No. 2424, Draft 2 which is before us today. I did not have a chance to explain the dialogue that has been going on between KIUC, and Planning, and the County Attorney's Office, trying to define the limits in another way.

Chair Furfaro: I understand you have that question.

Ms. Yukimura: Okay.

Chair Furfaro: But understand where I am coming from as the Chair, I have sent Planning that question at least twice already.

Ms. Yukimura: Okay.

Chair Furfaro: They have not responded. Now, if they respond differently to you than they do to me, then come up and tell me and I think that is fair and reasonable. I have asked them to meet with KIUC and get something that indicates to us what their strategic plan says they will use in the way of acreage for

solar power, so that we have it when we get close to Planning action on the important ag land; we are getting closer and closer.

Ms. Yukimura: Yes. Okay. I think that is fine Chair. I will go into further discussion when we come back into session from the public testimony.

Chair Furfaro: You do not disagree what I am asking is fair and reasonable?

Ms. Yukimura: No, I do not disagree.

Chair Furfaro: And I have not seen it.

Ms. Yukimura: We were working with this testimony from Brad Rockwell, but I can see your desire to have it in formal format.

Chair Furfaro: Thank you, Mike.

Ms. Yukimura: Thank you.

Chair Furfaro: Planning, I guess you heard and I think you have heard this from me before right? You have the floor.

Ms. Yukimura: No, I am done with questions.

Chair Furfaro: Okay. Anybody else want to give testimony? Planning, again thank you for being here because I wanted you to hear that message again from me. Let us get something that we know has been reviewed by the senior management at KIUC and the Board of Directors that indicates what their total use of ag lands will be for the purpose of solar power, and that solar is equivalent to how many acres and what percentage of their production for their grid? If there is no further testimony we are going to come back to order.

There being no objections, the meeting was called back to order and proceeded on its agenda item as follows:

Chair Furfaro: I will give the floor to Vice Chair Yukimura. JoAnn, I want you to know I appreciate the work you are doing, but when the Chairman asks for an answer to something, I expect some kind of response.

Ms. Yukimura: Fair enough, Chair, like I said we were working off of that but I will explain what we have been trying to do.

Chair Furfaro: The floor is yours.

Ms. Yukimura: Chair, if I may I want to explain Bill No. 2424, Draft 2. At the last Council Meeting after working with KIUC, Planning, and the County Attorney's Office, we came up with the amendments that were passed in the last Council Meeting. What we are doing is translating what we thought at first would be a land area limitation to the definition of solar energy facility and power purchase agreement. Basically it works this way, our first goal is protect our best lands for food and possibly bio-mass energy, but we also want to expedite priority solar energy projects that will move us significantly toward energy sustainability goals. The problem is that both solar energy and ag likes B and C lands because they are the flatter lands and this is something I learned only recently, solar projects prefer the flatter lands. So there is a potential conflict there but there is a

natural constraint to solar energy projects because they do not provide at this time firm power, and the utility can only handle about twenty to thirty megawatts (20 to 30 MW) of large scale solar PV projects, which equates to another eighty (80) acres approximately beyond the projects that are already permitted. So we came up with this and I want to credit Ian Jung, and Ka'aina Hull, and KIUC for helping us think this through but to prevent the proposed law from proliferating small "iffy" projects on our best ag land. The amendments herein in Draft 2 ensure that the projects utilizing the proposed law will be serious and substantial projects that actually have a possibility of moving ahead and becoming a part of our grid. So that is what we are doing and nothing has changed in terms of our goal and limiting use of B lands and even C lands, but we are using this natural limitation at this point. Now, if I have not done a clear clarification, I invite Ka'aina to let me know. That is basically it, Chair.

Chair Furfaro: Okay. Ka'aina I would say to you that all Planning had to do was send me a note about my question. You guys are strategically meeting with all these people to determine the best use and if there was going to be any conflict in the important ag land.

Ms. Yukimura: Can we ask the question now?

Chair Furfaro: Sure, come up.

KA'AINA HULL, PLANNER: Good afternoon Chair, members of the Council, Ka'aina Hull from the Planning Department.

Chair Furfaro: So my question is obviously giving the courtesy about the question you might want to give us a synopsis of what we are doing now, so I will pose this fact that I did not get any information and it is because you folks are diligently working with Vice Chair Yukimura on your plan. Can you recap where we are at?

Mr. Hull: Well concerning our collaboration with KIUC, we have been speaking with KIUC, but the most that we have received is the same thing that was received by this Council on March 14.

Chair Furfaro: Okay we have already established for me that is not acceptable, but if that is all you received, I understand.

Mr. Hull: Concerning the amendments proposal by Vice Chair Yukimura, the Department has been working with her and the County Attorney in crafting essentially what tightening up or ensures that any proposals or applications for a solar facility via the proposed process would either meet the definitions and regulations established by the Hawai'i Revised Statute 269 or have secured a power purchase agreement with a utility that meets those definitions and requirements. That in particular is just because in discussions with the County Attorney the Department has been made aware and made cognizant of the fact that we cannot be crafting anything specifically for KIUC. While KIUC is the primary player in town, any crafting of legislation in that manner can be construed as monopolistic crafting of legislation. And then also this speaks to the fact that there is at least one (1) other producer or supplier of energy on the island right now and KIUC while is the main player in town is not necessarily going to always be the only main provider on the island, so it anticipates future or a potential for future developments, as well as the existing of another utility provider on the island today, so it anticipates future or the potential for future developments as well as the existing of another utility provider on the island today.

Chair Furfaro: So I understand this concern from the County Attorney's Office about monopolizing any statements and so forth but it is still worth getting something from KIUC saying what they believe the ultimate use will be of how much land regardless of who is producing that energy for us. That is what I am looking for because I believe November is the important ag land piece?

Mr. Hull: Correct.

Chair Furfaro: So I would like to make sure that we put it before then. I cannot beat this horse anymore, it is already dead. I think you understand what I am looking for.

Mr. Hull: Understandable, Chair.

Chair Furfaro: Thank you and thank you for the work with Vice Chair Yukimura and I have a better understanding the way you folks are going to but still looking for something that tells me we are not going to clash with the important ag land piece.

Mr. Hull: Definitely.

Chair Furfaro: Thank you.

Ms. Yukimura: Thank you.

Chair Furfaro: You still have the floor, Vice Chair.

Ms. Yukimura: Chair, I also want to note that we deferred this bill specifically at Councilmember Rapozo's request that we get Farm Bureau input on it. Our staff has checked with the Farm Bureau, speaking to Melissa McFerrin as well as Jerry Ornellas, and they are okay with the bill as far as the Farm Bureau is concerned.

Chair Furfaro: Any more to add?

Ms. Yukimura: That is all I have unless there are questions or comments.

Mr. Rapozo: I guess I have a question.

Chair Furfaro: Yes Mr. Rapozo.

Mr. Rapozo: I have not seen anything from the Farm Bureau. I know the last communication we had from them, they were concerned of the ease of over the counter permitting for solar projects on ag lands, and that is quite different from what I just heard. I had expected to receive some testimony from the Farm Bureau regarding the amendments and I have not seen that. I am not sure, and I apologize for walking in late but what was the intention of the Council was going to be to defer this?

Chair Furfaro: No. The intention I, I am prepared to vote on it, I just wanted to get some things cleared up between we had testimony from somebody who said KIUC indicated this was going to be the last of the use of certain kinds of ag lands and so forth and I never got my answers from back in March 14 when I wanted to see something on KIUC's stationary telling us what

they believe the maximum consumption would be of ag land for solar. Vice Chair Yukimura has brought us up to date I think which satisfies my understanding of where we are going. I still want the letter from KIUC but I am prepared to vote on this hearing verbally from the Farm Bureau. I did talk with some people from the Farm Bureau that indicated to me that they were okay but we do not have anything from them in writing either, do we?

Ms. Yukimura: Yes and I just checked with the staff, the reason we do not...we sent them an email the day after the meeting and they just have not had time to respond in writing is what I am getting.

Mr. Rapozo: Well that would take about three (3) minutes to respond in writing and I think my concern is as we have seen with the Farm Bureau in the past have had testimony or representations made of the Farm Bureau that in-fact was never discussed by the Farm Bureau and I think that is a concern of mine. Any individual member of the Bureau cannot speak for the Farm Bureau and again the last letter that we had received was pretty clear that they were not in support because of the, they did not feel that easing up on the requirements for anything other than ag and they do not consider solar as ag. That is what I and I do not have that communication with me but it is in the file.

Ms. Yukimura: This bill reflects that this bill has the provisions that would specifically protect B and C lands by the limitations that are set by the definition. It does not take them just three (3) minutes to meet and discuss and...

Mr. Rapozo: No, no, you said they did not have time to put it in writing, you did not say they did not have time to meet. If they have not met then obviously they cannot make a statement.

Ms. Yukimura: Well okay, we are taking from the leadership of Melissa McFerrin and Jerry Ornellas.

Chair Furfaro: Okay and on that note we need to take a five (5) minute caption break for a tape change, it is five (5) minutes only.

There being no objections, the meeting recessed at 2:18 p.m., reconvened at 2:33 p.m., and proceeded on its agenda item as follows:

Chair Furfaro: I would like to call for the question on the resolution that we have been discussing, the bill, I am sorry, I keep calling it a resolution.

Ms. Yukimura: We have a resolution next.

Chair Furfaro: I have a motion and a second, any further discussion? If not, roll call vote please.

The motion to approve Bill No. 2424, Draft 2, was then put and carried by the following vote:

FOR APPROVAL: Bynum, Chang, Kualii, Yukimura, Furfaro	TOTAL - 5,
AGAINST APPROVAL: None	TOTAL - 0,
RECUSED: Nakamura	TOTAL - 1,
EXCUSED & NOT VOTING: Rapozo	TOTAL - 1.

Chair Furfaro: So everything is forgiven if we just get some things in writing okay? Thank you all. Mr. Kuali'i, I am going to recognize you for the next resolution if I can get it read. Have Nadine come in please. Thank you again. But is he here or did he depart?

Mr. Kuali'i: He is not here.

Chair Furfaro: Is Mr. Rapozo here? If not the Chair is going to recognize KipuKai. Thank you Nadine. I will let you start, sir.

RESOLUTIONS:

Resolution No. 2012-37, A RESOLUTION ENCOURAGING ADOPTION OF ANTI-BULLYING POLICIES AND REGULATIONS

Chair Furfaro: Can you actually read the resolution?

Mr. Kuali'i: I can.

Chair Furfaro: Can we have the resolution read.

Mr. Kuali'i: Mr. Chair, this item was initiated by Councilmember Rapozo in response to the death by suicide of a young man in Waimea, and when he asked me, I said of course I would join him in sponsoring this resolution and he just basically beat me to the punch. I will read the resolution and see if he might be walking in.

Chair Furfaro: If you would like to read it or do you want me to have the Clerk, either one (1).

Mr. Kuali'i: I can read it.

Chair Furfaro: Do you prefer to read it? Okay Mr. Clerk Councilmember KipuKai is going to read the resolution.

Mr. Kuali'i: This is a resolution encouraging adoption of anti-bullying policies and regulations. Whereas school bullying, harassment, and intimidation greatly reduce a student's ability to both achieve and surpass academic standards and can often cause a student to drop out or change schools; and whereas school bullying, harassment, and intimidation can directly affect the student's health and well-being and thus contribute to excess absences from school, physical sickness, mental and emotion anguish, and long-term social and mental illness; and whereas bullying, harassment, and intimidation can take physical, verbal, and written forms including use of electronic media; and whereas bullying can result in poor self-esteem, depression, anxiety about going to school, and even suicidal thoughts; and whereas gender non-conforming students are less likely than other students to feel very safe at school and are more likely than others to indicate they sometimes do not want to go to school because they feel unsafe or afraid there; and whereas gender non-conforming students are also more likely than others to be called names, made fun of, or bullied at least sometimes at school, and suicide rates for gender non-conforming students is particularly high; and whereas it is long past the time for not only society but also for each community to acknowledge that bullying is not some sort of right of passage to be simply ignored or tolerated; and whereas no student should feel threatened at school because of his or her race, color, national origin, ancestry, sex, religion, disability, sexual orientation, gender identity or expression, or for any other reasons relating to personal identity or

beliefs; and whereas incidents of reported school related bullying in the State and throughout the Nation are ample evidence of the need for intervention; and whereas it is within the goals and dictates of the State's public education system to provide a healthy, positive, and safe learning atmosphere for all children in the State school system. Now, therefore, be it resolved by the Council of the County of Kaua'i, State of Hawai'i, that it hereby expresses its condemnation of bullying, harassment, and intimidation in schools. Be it further resolved that the Council urges schools, community members, and concerned parents to work together to further define and understand the multiple aspects of bullying and effectively use systems for reporting school related bullying incidents. Be it further resolved, that the Council urges the Hawai'i State Board of Education to respond to school related bullying incidents by implementing a program where victims of bullying can be identified and assisted and perpetrators educated in order to create safer schools that provide a positive learning environment. Be it further resolved that copies of this resolution be transmitted to the Hawai'i State Board of Education, the President of the State's Senate, the Speaker of the State House of Representatives, the House Finance Committee Chairperson, and William Arakaki, Kaua'i School Superintendent, and the principals of all Kaua'i schools. Introduced by Councilmember Mel Rapozo and KipuKai Kualii.

Chair Furfaro:
Mr. Rapozo.

Thank you. On that note I would like to recognize

Mr. Rapozo: Thank you. I apologize for being late, I stepped out to make a phone call to the Farm Bureau and unfortunately missed the vote. Anyway, thank you all for being here today. This started off, I cannot remember where on the mainland, I think I was on the mainland and I read or heard it was something about bullying and felt like there was something we can do. Although we really do not have a direct connection to stopping bullying, we do have an opportunity to raise awareness and in-fact to raise awareness to the people that can make a difference. If you look at the resolution, it is targeted to the Board of Education and the people in those levels of government that can actually implement policies, start policy and taking care of the problem rather than ignore that it exists. The worst thing that I hear is hey Mel that is just how it is, that is part of growing up, and that is ridiculous. It is not part of growing up. It should not be part of growing up, I mean nothing frustrates me more than hearing stories about what goes on in schools today. My daughter is a junior in high school and she has been exposed and been part of these types of behaviors. I personally was bullied my whole eighth grade year at Waipahu High School. If you are white, you do not want to go to Waipahu High School, they do not care if you are born and raised in Hawai'i, they do not care if you speak pidgin, as long as you are white, back then you got beaten up; it was a daily thing. It is harsh having to hide in the hallway, hide in the bathroom, you got to hide between bells so you can get to your class on time. The first day I stood up to the bullies I got hurt, so I never stood up anymore, and lived that whole year of my life in fear everyday; so I know what it is like and there was nothing that anybody did or could do. People laugh at you if you told the teacher, they laugh at you, I mean that is how bad it was back then and it has not gotten any better. So this resolution is really a plea from this body and from the community that hey DOE, BOE, whoever the heck is responsible, do something about it, make it safe. It is bad enough to have to go to the bathrooms at school and it is already an intimidating thing just to use the restroom, much less install a bully in that restroom and it is double the problems causing all kinds of issues, digestive problems, and stress, and anxiety problems with our kids, and yet we sit back, we meaning the State leaders, and just allow it to continue. So I am hoping that this is the start of a very loud campaign from the County of Kaua'i to our State leaders saying we are not going to put up with it anymore. I do not care what the reason is

whether it is sex, looks, gender, equality or sexual preference, it really does not matter what the cause or what the reason is. The bullies have to be stopped and I was talking to Renee folks on the radio yesterday, and I said I always believed that school is a place for learning, and if we have distractive kids in school, and this is probably going to make Statewide news, then the problem should be removed from the school, the distraction needs to be removed from the school so that the kids that go to school to learn can be allowed to learn. This bullying is causing a lot of problems and I am not going to get into detail with the suicide issue, but we on Kaua'i know we have been hit really, really, really hard in the last few years with teenage suicide, and that is most unnecessary, unwarranted cause of death ever possible in mankind. Am I passionate? Yes, I am. Do I think this resolution will make a big difference? Not right away. But I tell you what, if we stay on this and we as a body, as a community, as an entire County follow through and hold our State leaders, hold their feet to the fire, I believe in time we can make a difference. Thank you Mr. Kualii for co-sponsoring and I anticipate this to pass unanimously. I cannot imagine anybody voting no to this, but it is more than just a resolution as I explained to you, Renee, yesterday. What we need behind this resolution is the community support, the community testimony, and thank you for your help, we got some and we are going to attach it all together and send it off and hopefully someone will listen, and start to make it safe again for our kids at school. So thank you very much.

Chair Furfaro: On that note, I will let both of the speakers have the time upfront. I would like to see if there is members in the public that would like to give testimony before I let other Councilmembers speak. D.Q. would you like to give testimony? You can come together, please go right up front, Renee. Good to see you folks, D.Q.

There being no objections, the rules were suspended.

RENEE HAMILTON, EXECUTIVE DIRECTOR, YWCA OF KAUAI: Aloha. Thank you Council Chair and members of the Council, D.Q. and I are just a little tag team here together, we work closely together, and we will talk a little bit about that today. I know that D. Q. Jackson...I am the Executive Director for YWCA of Kaua'i, I am also a community member involved in PFLAG Chapter on Kaua'i. PFLAG stands for Parents Families and Friends of Lesbians and Gays. I am also part of Kaua'i Youth Council, and as Mel alluded to, I humbly host a radio show one (1) hour a week called "Free to Be" where lots of different opinions and hopefully an opportunity for people to talk about issues such as bullying. It was a great topic of conversation and I just wanted to be here today to really....but then again just to express my full support and say thank you for bringing this again to the forefront of our conversation today about bullying in schools, and bullying that could also continue in later years as well.

The YWCA does have programs, youth programs as part of our prevention education component to the work that we do, and we hear about this. We are in the schools almost every day, pre-school on up, and we know we have talked about this with the educators that bullying happens, we go in and we talk about trying to treat each other with mutual respect, understanding differences, and finding all the other things that we have in common, and knowing that how we treat each other is very, very important, and that there really is no excuse for any kind of harassment, or bullying, or abuse of any kind whether you are youth, or adult, or teen, or any age. So again thank you for doing that and we would join any efforts to work in the community, continue our work, and welcome any other partners that would work right alongside of us. I am also hoping, one (1) thing that we wanted to do, there is a new movie coming out, I do not know if anybody has heard about it, called Bully,

and there has been quite a bit on the internet and on the news about this documentary, and I think it is going to be very, very impactful. We are hoping to work with some venues to be able to show that and have that free to the public so more people can be exposed to that and we can further these conversations. So I will keep you informed when we get the opportunity to do that. One (1) other thing I would like to bring to your attention is a conference that is coming up, I am part of the planning committee of the Hawai'i LGBT Youth Council, and we have modeled this conference which is coming up in June. One (1) of the reasons we felt this was necessary in our community is because of bullying factors that we have heard about directly from our youth, it is called Support, Connect, and Respect, and I think those three (3) words are very, very key, and can help us in our work in addressing this issue. It is LGBT Youth Health and Safety Conference. We are focusing obviously on LGBT youth, but anything I think that we are talking about or presenting at this conference can really be carried across the board to any population no matter of sexual orientation, or gender, or race. The principles that we will be talking about again would be able to apply across the board. I want to invite D.Q. to talk a little bit about this as well because we are working together.

D.Q. JACKSON, EXECUTIVE DIRECTOR, MALAMA PONO HEALTH SERVICES: I think you all know that Malama Pono's mission is to deal with life threatening sexually transmitted diseases and we are used to death. We are especially distressed when it is young people, and youth suicide is just intolerable to us especially when it deals with young people who do not feel quite the same as all the other kids. This bullying has been quite a problem and a concern for us. We would like to tell you what we have done about it, what we would like to see done. Malama Pono and YWCA have a very strong, and collaborative...we have worked together on programming and on grants. We received a grant from the Crawford Idema Family Foundation, they are actually located in Massachusetts but have connections here on Kaua'i. We received a large grant from them to address this problem and to assist our Kaua'i High Schools in setting-up what are Gay Straight Alliances or clubs that the kids set-up where they can address these issues of differences and can do it in a matter that encourages respect for differences. I am pleased to tell you we made quite a bit of success, we have received significant support from the Department of Education, and in fact as part of the process we have been able to train a large number of education officials and people in the schools. I am going to defer to Renee to give you some exact numbers and exactly what we taught them.

Ms. Hamilton: We are really happy about this; Kaua'i's Superintendent Bill Arakaki has been very generous and very supportive of our efforts. I think he also understands that with the formation of these clubs there is just better understanding and better training of differences and diversity in general, it helps everybody and addresses the general problems. He has given us an opportunity to meet with all of the principals, the vice-principals, the school counselors, and also Mokihana staff in our County. What we have tried to do in that training is really again do some education in terms of what are some of the issues that youth and their families may face with bullying, with being different, or consider themselves not like everybody else. We have been really well received, what has been really impactful are the stories; we have had panels with parents, with youth there, and really telling it like it is for them and how they live day-to-day in school. Mel, some of the things that you were talking about having to hide, they do that. We have been able to form two (2) GSA Clubs, one (1) is at Kapa'a High School that was the first one (1) that we were able to do, the second one (1) is at Kaua'i High, and they are actually calling themselves I believe a diversity club or celebrating diversity club, and they are doing very, very well. The statistics tell us and the research tells us when you have clubs like this it really

does bring down the incidents of bullying across the board. The research is there, it has been proven. So we are working on these efforts, we want to continue to have this training. The conference is open for anybody, we are hoping more teachers will be able to come as well as service providers and just community members, parents, and other youth. So we are very excited and grateful for Mr. Arakaki's support and opportunity to do this.

Mr. Jackson: To elaborate a little more on the number of teachers that we have trained to provide what are called safe spaces?

Ms. Hamilton: He is putting me on the spot, I am trying to remember how many were in the room. Many, many, again across all the grade schools, the principals, the vice principals, the counselors were there, there were at least forty (40) people per each session, so there is quite a few people out there now and we also again want to encourage more teachers and more counselors to be able to come and participate.

Mr. Jackson: For this conference coming up on June 8, our hope is that not only will our educators be participating, they will be, but also we are looking at business people too. Not only do we wish to assist our educators to provide safe spaces within the school for kids who find themselves being bullied or with those problems, to be able to come forward and seek help and guidance from their teachers and their counselors, but we would like to see this also from our business people and the community. We will be inviting them also to this conference, so how can they themselves and their businesses provide a safe environment for LGBT youth and LGBT individuals?

Ms. Hamilton: So again thank you to all of you and especially Councilmember Rapozo and Kualii for sponsoring this and giving us an opportunity to talk about it, we really appreciate it.

Chair Furfaro: I have a question for you. In the resolution we talked about counseling for the perpetrators, has that been a part of your discussion with Bill Arakaki?

Ms. Hamilton: That always is part of how we try to address that in terms of prevention as well, and the response to that. I do believe that, and the research I get also bares that out that once there is one (1) voice really and everybody being on the same page in terms of not just acceptance but really embracing differences and finding those commonalities, it also helps bullying look at them self (sic) and know that they do not have to do that, that they are empowered just to be who they are.

Chair Furfaro: I just thought that was a key part in the resolution.

Ms. Hamilton: Absolutely, absolutely.

Chair Furfaro: Members? Vice Chair Yukimura.

Ms. Yukimura: Thank you very much for your work, both of you, in differing and overlapping spheres. I was really happy to hear about the clubs because to me sometimes our response to bullying can be pretty adamant and violent itself, but you are working on a really positive thing that can change the atmosphere in the schools so that is very exciting for me to hear about. I wanted to share that and maybe there will be an appropriate time at another meeting, but

there is some anti-bullying programs going on in the schools right now and one (1) of them is the Aloha Peace Project.

Ms. Hamilton: Great program.

Ms. Yukimura: Which through games and puppet shows and other things are teaching young people how to think in a different way, I mean they will view I think one (1) puppet belittling another puppet for having different color hair, and then they will put on their peace glasses and look and see how they can look at this in another way. The other concept that was so exciting was they talk about a caring majority and how whether it is a janitor or another student, if there is a bullying incident going on, there can be an intervention, it could be as light as hey we do not do things like that around here, or a comment or something that helps to create a different atmosphere.

Ms. Hamilton: Absolutely.

Ms. Yukimura: And so there are some positive things going on; how we sustain them and build on them is another question because obviously we are not reaching our goals yet.

Ms. Hamilton: There is still work to do and I think too one (1) thing I did not mention is the challenge I think with social media and still wrestling with the Facebook impact and texting impact, and there is so many ways now sadly that social media can be used for destructive purposes or negative purposes and to really try and turn that around. I think we are all wrestling with some of that and how to best address it.

Ms. Yukimura: Well thank you very much.

Chair Furfaro: Mr. Bynum did you have your hand up?

Mr. Bynum: No. Great tag team, you guys always do a great presentation and I want to have some comments when we call the meeting back to order, so no questions.

Chair Furfaro: Did you have a question, Mr. Chang, or can it wait until I call it back to order? From the Council, thank you both for presenting some of the background and the support for this resolution, thank you. I am going to call the meeting back to order and Mr. Bynum I will recognize you first.

There being no objections, the meeting was called back to order.

Mr. Bynum: I just want to speak in full support of this resolution and thanks to Mel for bringing it up and KipuKai for co-sponsoring. I think my only comment is is that this is appropriately focused at schools but bullying happens among adults too and colleges, and in the workplace, and in other forms, and if bullies are not held accountable for that behavior, it continues and escalates. And so I think all of this resolution is great, and it also could apply in the workplace as well. Thank you.

Chair Furfaro: Vice Chair Yukimura.

Ms. Yukimura: Yes, I have an amendment to offer and one (1) includes just a technical amendment and the other I will explain, if I may.

Chair Furfaro: You may.

Mr. Bynum moved to approve Resolution No. 2012-37, seconded by Mr. Kuali'i.

Chair Furfaro: We have a motion to approve and a second on the main piece now, we have an amendment to introduce.

Ms. Yukimura moved to amend Resolution No. 2012-37 as circulated, seconded by Mr. Kuali'i.

Ms. Yukimura: Does everybody have a copy? Mr. Chang does not, can someone give him a copy please and anybody else. So this is only supportive of the essence of the resolution, corrects a technical error on the first page, and then in the third paragraph on the second page, besides asking for a system for reporting it includes also a system for effectively reducing school related bullying incidents. And then in the second be it resolved paragraph, or third be it resolved paragraph, it talks about creating a school environment where teachers, students, staff, and administrators are encouraged and supported in expressing aloha, and because the Dalai Lama has just been here, love and kindness to each other. But it basically supports the essence and expands slightly the scope of the resolution.

Chair Furfaro: Is there any discussion on the amendment as introduced? I am delighted to see the word aloha and it means so much in so many ways about mutual respect, caring, taking care of one another, and so forth. So thank you for that. If not, I am going to ask for a vote on the amendment.

The motion to amend Resolution No. 2012-37 as circulated was then put, and unanimously carried.

Chair Furfaro: Now that we have passed the amendment, we will go to the resolution as amended.

Ms. Yukimura: May I say just a few words?

Chair Furfaro: Yes you can have the floor again. I will let everybody have the floor that wants it.

Ms. Yukimura: Thank you. I just want to also thank Councilmembers Rapozo and Kuali'i for bringing to the fore a very important issue to our community, an issue that has caused much sadness and grief and fear. Bullying is violence, and it is anti-aloha, and learning cannot happen when there is fear. So this resolution is calling on all of us, in particular the schools, to cultivate the opposite which is as the Chair very articulately said an atmosphere where people take care of each other and show kindness. I am very happy to support this and stand ready to work with anyone and everyone who is striving to change this situation on Kaua'i.

Chair Furfaro: Thank you, anymore? Mr. Chang.

Mr. Chang: Yes, thank you Councilmember Kuali'i and Councilmember Rapozo for sponsoring this resolution. You know, in the days of my youth there was the world of wrestling, and if you found out a move or you saw something pretty cool, you would try to test it on somebody that was weaker than you, because obviously the moves do not work unless you got somebody smaller perhaps. You would always want to stay away from the person that was bigger,

because the bigger person could slam you around. But it has become a very violent world out there, and nowadays it is a very very rough and tumble world. But I think unlike the old days when it was just fist to cuffs, nowadays you do not know if somebody has got any other weapon, that it does not matter how big you are because the smaller guy is going to end up winning anyway. From personal experience, I was asked last year to do a prayer on National Prayer Day on behalf of the media and everybody thinks that media is a beautiful thing, it is all ra-ra and people should report the good things. I kind of lost it, and the reason that I lost it is that I am extremely technologically not there at all, but the one (1) thing that I was aware of is how nasty computers and telephones and people can bully, people can pick on you, people can ream you, and you do not know who they are. In my opinion that is just very very sad that this psychological warfare can happen especially for those that are a lot weaker that have no outlet, no counseling, no love many times at home. It is just a real heavy burden not only as a youngster but as an adult, so I am glad this came up into the forefront. And as the news spread and more people are aware of this plight, then it is everyone's responsibility to jump in. I think it is everyone's responsibility to, if need be, step away, count to ten (10), and maybe take a deep breath before doing or saying or reacting, because I think that is how a lot of the children nowadays get their reaction is just by seeing and watching adults, unfortunately, in many cases with this pressure around, "snap" and jump in. I just want to be able to echo the comments and just thank the community organizations out there that are creating the awareness because this is Kaua'i, it is one (1) island, many people, all Kauaians, and we got to share aloha, and I think the way to do it is with this resolution, just to be able to create awareness because people not only on this island but statewide will be hearing of Kaua'i's resolution. So again to our fellow Councilmembers, thank you for creating this awareness because it is a very, very, very important awareness that our island needs to be reminded of. Thank you very much.

Chair Furfaro:

Anyone else? Mr. Kualii.

Mr. Kualii: Thank you Mr. Chair. I do want to thank Councilmember Rapozo for bringing this forward and for inviting me to join him, and I wanted to thank Renae Hamilton from the YWCA and D.Q. Jackson from Malama Pono. I also wanted to mention the President of PFLAG Kaua'i, Noelle Cambeilh, who wanted to get here but she was not able to get here until 4:30 p.m., but I know she works for the DOE, she works on the Mokihana project, so she is on the frontline in working with our young people, and I know that this is a very important issue to her personally, and she will be very happy to hear of our unanimous support. I just wanted to reiterate that this conference, one (1) day conference Support, Connect, Respect, the LGBT Youth Health and Safety Conference, which is on June 8 from 8:00 a.m. to 4:00 p.m. at the Courtyard Kaua'i at Coconut Beach. It is going to be a great conference, bring a lot of resources from O'ahu as well, and the Mayor will be there to do a proclamation, I will be there to present this resolution as well as a certificate, and I would invite all of my Councilmembers to come and join me if your schedule allows. I just wanted to say to everyone at PFLAG Kaua'i and Malama Pono and Malama Kaua'i, all the community organizations doing this important work, and to Bill Arakaki and folks at the DOE, please keep doing what you are doing, it is very important to our youth. Thank you Mr. Chair.

Chair Furfaro: Anyone else who wishes to speak? If not, I want to say I am very appreciative of the resolution brought forward. I think many of our island values, we talked about aloha, we talked about doing the right thing for the right people and the right reason. In kina'ole, we also need to know that everybody needs to kōkua this making our place the best it can be is really important for our

community health. I fully support this resolution and will be voting as such. On that note I am going to call for the vote.

The motion to approve Resolution No. 2012-37, as amended, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chang, Kualii, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL - 7,
AGAINST ADOPTION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Chair Furfaro: Thank you very very much. Now we are going to call up the County Attorney and while she is on her way up I have an announcement as well to remind everybody, next week we are going to try and get caught up on certificates. We have to do four (4) at one (1) time, so again I am just asking all of you to be sensitive to the fact that when we have four (4) resolutions next week it will take an abundance of time. So they are appropriate to recognize things going on in our community and I would like to try in the future stay to two (2) a week if we can so give us a little more notice and I would appreciate it.

Mr. Rapozo: Mr. Chair, may I have a moment of personal privilege?

Chair Furfaro: Yes you may.

Mr. Rapozo: I just want to state that I stepped out on the caption break because I went out to make a phone call to the Farm Bureau, which I did get a chance to talk to Melissa. I am not going to get back into the debate. I understand the vote was taken while I was gone, but never has that ever happened to me where I stepped out on a caption break and a vote was taken, knowing that I was the Councilmember that asked for the deferral. I am very upset, very upset. I was on the phone with Melissa, and we talked, and ironically what she told me was really not what was represented, but that is something you folks can deal with the Farm Bureau. I would just ask for the courtesy. I was in our staff's office, I did not leave the building. We sit here on caption breaks for twenty (20) minutes, fifteen (15), eighteen (18), twenty-five (25) minutes, we always wait until everybody gets back and I find it very, very, very disappointing that the vote was taken while I was in the building with staff on the phone and no one ever called or texted or anything or even try to make an effort to find me. So I just wanted to put that on the record, because I was going to ask for a deferral. I was going to ask for a deferral because of what the discussion I had had with Melissa. But I understand the vote was taken and it passed, congratulations. I just ask all of your indulgence that if anyone of us is out on a phone or in a meeting with staff that we take the courtesy to wait for us to return.

Chair Furfaro: Your point is well taken, Mr. Rapozo, but perhaps you do not know that I asked for your location. But right now because I do not want any ill feelings on the Council, I would like to have a motion to reconsider.

Mr. Bynum moved to reconsider approval of Bill No. 2424, Draft 2, seconded by Ms. Yukimura.

Chair Furfaro: I would like to have an opportunity to be able to record Mr. Rapozo's vote by doing this reconsideration. I am going to ask Councilmember Nakamura to step out. Mr. Clerk may I move forward on a

reconsider vote so that we record his vote accordingly. Again my apologies, nothing was done by design, but let that also be a note, we are taking far too much time, everybody, at ten (10) minute breaks.

(Ms. Nakamura was noted as recused.)

County Clerk: Mr. Chairman...

Chair Furfaro: Yes I have further discussion here. Vice Chair Yukimura.

Ms. Yukimura: Yes thank you. I want to apologize too, I think we could have, I could have made an effort to reach Councilmember Rapozo and I did not. I think he should have the right to be part of the decision making and so I do appreciate this motion to reconsider so that we can have his full participation. I apologize.

Chair Furfaro: Any further discussion? If not...Mr. Chang.

Mr. Chang: If we are of course including Mr. Rapozo, I think a lot of his conversation with who he spoke with with the Farm Bureau definitely affects what we are talking about, so I do not think we should just record his vote as being a no. He has some information that was not conveyed in the right context and we were speaking on behalf of what we thought the Farm Bureau might have said or might have been saying without no representation whatsoever from the Farm Bureau. I believe that with his phone call that he made, he has information to tell us what their understanding was and what their side was. So I do not know if just reconsidering on a vote, I mean reconsidering the vote does us any good without having the discussion as to what their opinions are as far as the Farm Bureau is concerned.

Ms. Yukimura: Mr. Chair.

Chair Furfaro: I am going to acknowledge your request and we can give the floor back to Mr. Rapozo in a few minutes, but I want to let you know also I am a member of the Farm Bureau and I did call. They do know when things come on the agenda and they did not submit any written testimony, and so I felt comfortable with my vote. Vice Chair Yukimura.

Ms. Yukimura: By moving to reconsider and if we vote to reconsider we will open it up for discussion. So that was the intention that we would have full discussion on the bill.

Mr. Chang: Thank you.

Chair Furfaro: Is there anybody else that wants to say anything before I call for the vote to reconsider? Mr. Bynum.

Mr. Bynum: I am still debating whether I want to say this or not, but I understand how Mr. Rapozo feels, and because not once but twice in the last month very emotional items were at this Council related to specifically to me, and the meeting was called back into session while I was out of the room. Discussion happened that I was not able to participate in and so I really can relate to what you are saying, Mel, because this happened not once but twice when I was told leave the room because you need to go call this person before we proceed, and then the meeting reconvened and there was a whole bunch of stuff and this was

related specifically to me. So I want to concur with Mr. Rapozo, we should not do that because I am still upset about it.

Chair Furfaro: I am not going to reference that as you painted out so let us all agree on this, it is everybody's kuleana to get back here in ten (10) minutes, and secondly if you are going to be gone longer, communicate a message to the staff. Now I am going to call for the vote on the reconsideration, but remember you all have some responsibility too. Let us do a roll call vote on the reconsideration.

The motion to reconsider approval of Bill No. 2424, Draft 2 was then put, and carried by the following vote:

FOR RECONSIDERATION:	Bynum, Chang, Kualii, Rapozo, Yukimura, Furfaro	TOTAL - 6,
AGAINST RECONSIDERATION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	Nakamura	TOTAL - 1.

Chair Furfaro: So we will open discussion again as we voted for reconsideration and as I pointed out, Mr. Rapozo you have the floor.

Mr. Rapozo: Somebody needs to make a motion because I am going to ask for a deferral, but I probably will not get the support, but if someone could make the motion to get it on the floor.

Mr. Bynum moved to approve Bill No. 2424, Draft 2, seconded by Ms. Yukimura.

Chair Furfaro: Mr. Rapozo.

Mr. Rapozo: Thank you, I appreciate the reconsideration. I did speak to Melissa and although she was contacted via telephone, the one (1) thing that she was not aware of on the phone call, I did not talk to Mr. Ornellas, she offered, but by then I had just been informed that the vote had been taken, that she was not aware that lands classified B was put back in. That is critical to the Farm Bureau. Prior to this B lands were out, B lands were out. What she told me on the phone, and Peter was there on the speaker phone, that she basically was assured that this would not open up the flood gates and that in-fact KIUC had agreed or confirmed that there was not many lands available anyway, so it was kind of sort of an agreement with reservations. When I mentioned that the B was put back in, she did not know that, and the other thing that she confirmed was they did not meet. She said she spoke individually with certain leaders of the Farm Bureau Kauai and in Oahu, but they never met to discuss this as a body. So I am going to ask for a deferral, and that is fine, I do not think it will change much, but I think that the Farm Bureau...and she felt that basically her communication on the phone with Peter or whoever she spoke to was sufficient, and for me it is not, it is not. I think that if the Farm Bureau knew, I think if Melissa knew that B was being put back in, I think they may have submitted some testimony, but maybe not, that is all speculation. I told her I am not a solar farmer, I am not a regular farmer, this bill does not affect me one (1) way or the other, but because it affects ag land I felt that the Farm Bureau should have had the opportunity to submit testimony after seeing the actual amendment and not just being told that oh no worry this amendment is not going to open up the flood gates; of course they are going to agree to that. Anyway I am ready. In fact, I will not even ask for the motion to defer. We will just take the vote, I will vote, I will vote no, and it can pass.

Chair Furfaro:

Mr. Bynum.

Mr. Bynum: I just want us to take a step back. This bill was deferred at least twice to get more amendments and more discussion. I spoke with individual members of the Farm Bureau and the Legislature passed a bill that overrode it, it was a home rule issue, they told the Counties this is the way it is going to be. This bill from our Planning Department says well okay Legislature that is the way it is going to be but we are going to go through a process if we get involved in B lands, and KIUC said no, you do not need that right? The guy here that is representing a private company on D lands says no, I like this bill. And so this bill from our Planning Department does what we can to have more say, should we use B lands. I think we have heard ample testimony that says that it is not going to open the flood gates and that this bill actually is the County doing what it can to have some say and some public hearing should these opportunities arise, as I understand it. KIUC's testimony says oh no you are putting another layer of regulation on us and the Farm Bureau had plenty of time and notice to come here with some kind of formal response. So I am comfortable with my vote earlier and I will be prepared to vote on this today, but I do support what Mr. Rapozo said and from personal experience we need to be cautious that...but Mel, nobody was trying to pull a fast one (1), so thank you.

Chair Furfaro:

Vice Chair Yukimura.

Ms. Yukimura: Yes we did send them a copy of Bill No. 2424, Draft 2, so it did show them that B lands were put back in. The reason why as you may recall we first took out B lands and then there was some possibility that because solar facilities tend to go toward B lands, because they are flatter, that there might be some B lands involved and we did not want that to be a complete prohibition, so then we put in a limit on B lands and we said up to eighty (80) acres. But then we thought about the problem where a lot of solar developers might come in, get the permits and not be able to proceed for whatever reason, whether it was financing or they could not get an agreement with KIUC or whatever. They would be sitting on these lands at eighty (80) acres and other developers who might have the wherewithal to actually bring a project to completion would not be able to get lands because the eighty (80) acres of B lands were already taken up. And so when we saw all of these problems, we came on to the solution of this definition of solar energy facility and power purchase agreements, and using the natural limit, we feel that we are in-fact ensuring against more usage of B lands than eighty (80) acres or thereabouts. So it has been a complex process to get at this, I think we are achieving the best we can and to strike this balance between protecting ag land and also facilitating solar facilities up to a certain limit. Thank you. I think that we are actually meeting the Farm Bureau's concerns.

Chair Furfaro: Is there any more discussion? I plan to stay with my vote and as I made my own call to the Farm Bureau or some people there, Mr. Kualii, you have the mic.

Mr. Kualii: Thank you Mr. Chair. I do see the last testimony in writing from the Farm Bureau from the Director Melissa McFarren was dated March 14, and so a lot is being represented as this person said that, this person said that, but I really would like to see something in writing from either Melissa McFarren or President Roy Oyama from the Farmers (sic) Bureau after this testimony of March 14. In the testimony of March 14 they raise concerns and reservations. Also, I think, Mr. Chair, you are requesting that KIUC's testimony, the one (1) from Brad Rockwell, P.E. power supply manager, which is not on KIUC

letterhead and does not give the appearance as an organizational testimony endorsed by their board, it would be good to have that as well. Now I do not know if there is, it seemed like another two (2) weeks would not be that big of an issue. The other thing is I really want to hear from the Farm Bureau, yes, but I also want to hear from KIUC in the sense of the lands. The need for lands for future solar projects is becoming less and less as they bring more projects online in the sense that a portion of their portfolio that will be towards solar energy solar facilities is filling up, saturated. That is what we have been talking about but they have not actually officially said it in KIUC letterhead and we could get that hopefully in the next two (2) weeks too. I probably should have asked him the question because things have been represented on behalf of KIUC even in an internal memo to this Council from Peter Morimoto on a phone call to KIUC saying that with this project and the projects already known to KIUC and the Planning Department including Kapa'a Solar, the DHHL project in Anahola, the A & B project in 'Ele'ele and the Po'ipū Solar on the Knudsen land that KIUC does not anticipate purchasing or developing additional solar energy. Now the representative from Planning said something about potentially another electricity provider and that I think I am not sure what he was alluding to if there is anything in the making or is that just possibility of always being a possibility. But I think I would feel better if we just gave this a couple more weeks and try to get something in writing from the Farm Bureau and in writing from KIUC, and then maybe Planning can tell us what they meant by there could be other electricity providers, just those three (3) items. Thank you Chair.

Chair Furfaro: I just again want to say that I had a discussion with KIUC as well as the Planning Department to get my point across, my point across of having something that I know their board has looked at it, is on their stationary is not necessarily for this Council, it is for Planning. The two (2) of them agreed they were going to get something over to Planning on that break. As I said I am a member of the Farm Bureau, but I got to say the Farm Bureau's job most of the time is to lobby, they are in Honolulu, they are tracking these bills. Melissa is their full-time Executive Director, it has been four (4) weeks since that last letter and I just want to say there is going to be times we are going to give people time to submit written testimony, but we are going to defer an item because we did not receive something is something we should be sensitive to. Like I said, I am fine where I think we are and I will not be changing my vote. Vice Chair Yukimura.

Ms. Yukimura: I just want to say that on April 13 which was two (2) days after our meeting we sent them an email saying attached please find Bill No. 2424, Draft 2, so this version that is before us, and we explained what it does and we said please review the attached bill and provide us with written comments or concerns and if you have any questions please call me, that is Peter Morimoto our staff, or Councilmember Yukimura. So we really did give them full opportunity to respond and we did explain to them that...well they had the draft of the bill; they could see that the B lands were back in, but we explained how we were still protecting B lands.

Chair Furfaro: Is there any further discussion before I call for the vote on, we voted on the reconsideration, we are back to the resolution, and I would like a roll call vote please.

The motion to approve Bill No. 2424, Draft 2, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Chang, Yukimura, Furfaro	TOTAL – 4,
AGAINST ADOPTION:	Kuali'i, Rapozo	TOTAL – 2,

EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	Nakamura	TOTAL - 1.

Chair Furfaro: Thank you very much. Before I call the County Attorney up, I also hope that I can, if I owe you an apology, Mr. Bynum, for something I did last week, please accept my apologies.

Mr. Bynum: I will discuss it with you later.

Chair Furfaro: Okay but I am not sure I am familiar with what we are talking about, but we can talk about it later. I would like to also say that we need to be in situations where ten (10) minute breaks are ten (10) minute breaks and you have to take some responsibility because there are many times and people have heard me say to go find the Councilmembers to get back into session. Please take some of that kuleana on yourself for responsibilities. Can I have the County Attorney up.

There being no objections, the rules were suspended.

AMY ESAKI, FIRST DEPUTY COUNTY ATTORNEY: Good afternoon.
We request to go into executive session for ES-539.

The meeting was called back to order, and proceeded as follows:

ES-539 Pursuant to Hawai'i Revised Statutes Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Council, requests an executive session for Council to consult with the County Attorney regarding the Council's release of the County Attorney's written legal opinion dated April 5, 2012, regarding Real Property Tax Resolution and Setting of Tax Rates and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

Ms. Yukimura moved to convene in Executive Session to discuss ES-539, seconded by Mr. Chang, and carried by the following vote:

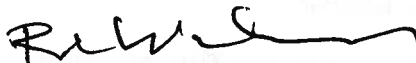
FOR EXECUTIVE SESSION:	Bynum, Chang, Kualii, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL - 7,
AGAINST EXECUTIVE SESSION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0.

There being no objections, the meeting was in recess at 4:25 p.m.

ADJOURNMENT.

The meeting was called back to order at 5:00 p.m., and there being no further business, the meeting was adjourned.

Respectfully submitted,



RICKY WATANABE
County Clerk